

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

NATIONWIDE AGRIBUSINESS  
INSURANCE COMPANY, as subrogee of  
CWH FARMS,

Plaintiff,

vs.

DEERE & COMPANY,

Defendant.

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CIVIL ACTION NO.: 4:19-CV-00425-O

**APPENDIX**

1. Defendant Deere & Company's Responses and Objections to Plaintiff's Request for Admission, Set I.....APPX.0001-APPX.0017  
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3. May 19, 2020 Deposition of Cody Wayne Hughes.....APPX.0023-APPX.0029  
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(Exhibit K)

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FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

NATIONWIDE AGRIBUSINESS	§	
INSURANCE COMPANY, as Subrogee	§	
of CWH FARMS,	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION NO. 3:19-CV-248
	§	
DEERE & COMPANY,	§	
Defendant.	§	

DEFENDANT DEERE & COMPANY'S RESPONSES AND OBJECTIONS TO  
PLAINTIFF'S REQUESTS FOR ADMISSION, SET I

TO: Plaintiff, by and through its counsel, William T. Sebesta and Randall J. Poelma, Jr., DOYEN SEBESTA & POELMA, LLP, 450 Gears Road, Suite 350, Houston, Texas 77067; and David J. Taylor and Michelle D. Hurley, YOST & BAILL, LLP, 2050 U. S. Bank Plaza South, 220 South Sixth Street, Minneapolis, MN 55402.

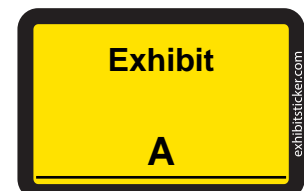
Pursuant to Federal Rule of Civil Procedure 36, Deere & Company ("Deere") serves its responses and objections to Plaintiffs' First Set of Requests for Admission, Set I.

Respectfully,

GERMER BEAMAN & BROWN PLLC  
301 Congress Avenue, Suite 1700  
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DEERE & COMPANY



Certificate of Service

This instrument was served on the following counsel in compliance with Rule 5 of the Federal Rules of Civil Procedure on January 22, 2020:

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/s/ Chris A. Blackerby  
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### PRELIMINARY STATEMENT

To avoid repetition, Deere incorporates the following Preliminary Statement into its responses and objections to First Set of Requests for Admission, Set I where the form or content justifies:

1. *Case Background and Allegations:* This case arises out of a fire involving a 2017 John Deere CS690 cotton stripper bearing product identification number (PIN) 1N0C690SKH4065098 (“Subject Cotton Stripper”) that occurred on October 24, 2017 near Roscoe, Texas. Plaintiff brings a cause of action against Deere for breach of express warranty related to the Subject Cotton Stripper. Plaintiff specifically alleges the Subject Cotton Stripper was defective because “it allowed for the shearing off of various bolt heads associated with the saw tooth blade, under normal operation.” *See* Joint Report (ECF No. 16) ¶ 1.a. Plaintiff has not disclosed its specific theories regarding the cause and origin of the fire.

2. *Unique Product, Fire, and Defect Theory:* This case involves a unique product, fire, and defect theory, as described in the preceding paragraph. To the extent these requests seek information or documents regarding other products or product models that do not share the same systems or component parts as the Subject Cotton Stripper, or seek information regarding systems or component parts—either of the Subject Cotton Stripper, or of other products—that are not implicated by the subject fire and defect theory, Deere objects to such requests as overly broad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action, the importance of the

requested discovery in resolving the issues, and the burden or expense of the requested discovery.

3. *Limitations to Answers:* This case is in its early stages, and Plaintiff has provided only limited information about its defect and cause and origin theories concerning the Subject Cotton Stripper. Accordingly, Deere is only able to provide limited information Plaintiff seeks through its requests at this time. Upon receiving additional information regarding Plaintiff's cause/origin and defect theories, Deere will supplement its responses in accordance with Deere's obligations under the Federal Rules of Civil Procedure and any scheduling order entered by the Court, as reflected in paragraphs 4 and 5 of this Preliminary Statement.

4. *Reasonable Efforts:* In responding to Plaintiff's requests, Deere spoke with those employees and conducted a reasonable search of those places in their records where information, if any, responsive to Plaintiff's requests would normally be known or kept. To the extent Plaintiff's requests, or any portions thereof, seek to require Deere to take any action other than as enumerated in the preceding sentence, Deere objects because the requests are unduly burdensome and oppressive. Deere employs a large number of persons and cannot be required to interview each employee as well as review the millions of documents generated annually in connection with the operation of its business.

5. *Investigation Ongoing:* Deere has made a reasonable good faith effort to locate information responsive to these discovery requests. However, Deere has not completed its investigation. Therefore, Deere may, while conducting its investigation, determine that additional information and documents may exist pertaining to subjects

covered by Plaintiff's discovery requests. Deere reserves the right to supplement these responses as permitted by Rule 26(e) of the Federal Rules Rules of Civil Procedure.

6. *Supplementation*: Deere will make reasonable efforts to respond, as Deere understands and interprets each discovery request. If Plaintiff subsequently supplies information differing from Deere's interpretation, Deere reserves the right to supplement its responses.

7. *"Warranty"*: The term "Warranty," as used in the responses below, refers to the Warranty for New John Deere Agricultural Equipment and Limited Warranty for New Turf & Utility Equipment (US & Canada Only) applicable to the Subject Cotton Stripper and attached as Exhibit A to these Responses.

#### OBJECTIONS TO "INSTRUCTIONS FOR REQUESTS"

Deere objects to Plaintiff's global instructions and definitions to the extent they purport to impose obligations or burdens upon Deere greater than those imposed by the Federal Rules of Civil Procedure.

Deere objects to Instruction A with respect to the term "located in any and all offices you and/or any employees, agents, employers and/or representatives maintain" because it impermissibly broadens the definition of "possession, custody, or control" in Rule 34(a)(1) of the Federal Rules of Civil Procedure. Deere will comply with its obligations under Rule 34(a)(1). Deere further objects to the second sentence of Instruction A as improperly seeking discovery on discovery.

Deere objects to Instruction B with respect to the term "any documents you have that contain all or part of the information contained" as vague, overbroad, not relevant, and

not proportional to the needs of this case, considering the issues at stake in the action, the importance of the requested discovery in resolving the issues, and the burden or expense of the requested discovery. Deere further objects to Instruction B to the extent it impermissibly broadens the definition of “possession, custody, or control” in Rule 34(a)(1) of the Federal Rules of Civil Procedure. Deere will comply with its obligations under Rule 34(a)(1).

Deere objects to Instruction C as an improper attempt to contravene the privilege log procedure set forth by the Rules. Deere will comply with Rule 26(b)(5)(A) of the Federal Rules of Civil Procedure.

Deere objects to Instruction D with respect to the term “locate [*sic*] in any and all offices you and/or your employees, agents, employers and/or representatives maintained for the period of seven years preceding the last date of compliance with this request” because it impermissibly broadens the definition of “possession, custody, or control” in Rule 34(a)(1) of the Federal Rules of Civil Procedure. Deere will comply with its obligations under Rule 34(a)(1).

#### OBJECTIONS TO DEFINITIONS

Deere objects to the definition of “you” (¶ A), as used to expand the scope of Plaintiff’s specific requests, on the grounds that it renders the requests vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues. Deere will respond to Plaintiff’s discovery requests on behalf of itself and only on behalf of itself. Deere further objects to the definition of “you” with respect to the terms “servants,”

“agents,” “counsel,” and “persons acting for them on their behalf in any capacity,” as impermissibly seeking information protected by the attorney-client privilege and/or the attorney work product protection doctrine.

Deere objects to the definition of “document” (§ A), as used to expand the scope of Plaintiff’s specific requests, on the grounds that the definition renders Plaintiff’s requests overbroad, irrelevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues. Deere will interpret the term “document” as it is defined in Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure. Deere further objects to the definition of “document” with respect to the term “all written . . . matter of any kind or nature and any other tangible thing . . . known by you to exist” because it impermissibly broadens the definition of “possession, custody, or control” in Rule 34(a)(1) of the Federal Rules of Civil Procedure. Deere will comply with its obligations under Rule 34(a)(1). Deere further objects to the term “document” with respect to the terms “drafts of any document,” “revisions of drafts of any documents,” and “original or preliminary notes,” because it purports to impose obligations greater than those imposed by the Federal Rules of Civil Procedure, rendering the requests vague, overbroad, irrelevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues.

Deere objects to the definition of “relate(s) to” (§ C), as used to expand the scope of Plaintiff’s specific requests, on the grounds that the definition renders Plaintiff’s requests

overbroad, irrelevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues.

Deere objects to the definitions of “identify” and “identity” (¶ E), as used to expand the scope of Plaintiff’s specific requests, on the grounds that they render the requests vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues. Deere further objects to the definition of “identify” and “identity” with respect to the terms “current or last home and business address” and “current or last known telephone number” because it invades the privacy of present and former employees of Deere, as well as third parties.

Deere objects to the definitions of “person” (¶ F) with respect to the term “all present and former officers, directors, agents, employees, representatives, attorneys and others acting or purporting to act on behalf of such natural person, partnership, corporation or other business entity,” as used to expand the scope of Plaintiff’s specific requests, on the grounds that it renders the requests vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues.

Deere objects to the definition of “product” (¶ G) with respect to the term “any and all preceding John Deere cotton strippers of a similar model,” as used to expand the scope of Plaintiff’s specific requests, on the grounds that it renders the requests vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues. This

term is not limited to the Subject Cotton Stripper, or the systems and component parts on the Subject Cotton Stripper relevant to the subject fire and/or Plaintiff's defect theories.

Deere refers Plaintiff to paragraphs 1 and 2 of the Preliminary Statement above.

### RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit attached hereto, as Exhibit A, is a true and correct copy of the original purchase document for the subject John Deere C690 Cotton Stripper with Serial Number IN0C690SKH4065098 ("Subject Stripper), that is the subject of this lawsuit.

RESPONSE: Deere admits the first page of Exhibit A appears to be a copy of the Sales Record between CWH Farms and the dealer (Hurst) pertaining to the Subject Cotton Stripper, and the remainder of the pages appear to be an unsigned "copy" of the Retail Installment Contract – Security Agreement pertaining to the Subject Cotton Stripper.

Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 2: Admit the Subject Stripper was sold as a new John Deere product.

RESPONSE: Deere admits it sold the Subject Cotton Stripper as new equipment to the dealer (Hurst).

To the extent this request seeks information regarding whether the dealer sold the Subject Cotton Stripper as new equipment, Deere states it is more convenient, less burdensome, and less expensive for Plaintiff to obtain this information from the dealer. Accordingly, after making a reasonable inquiry, the information known or easily obtainable is insufficient to enable Deere to admit or deny this portion of the request.

Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 3: Admit that the Subject Stripper was sold with a John Deere Limited Product Warranty that began to run on or about August 7, 2017.

RESPONSE: Deere admits it provides, for cotton strippers sold as new equipment, the Warranty. Deere does not use the term "John Deere Limited Product Warranty" to describe the Warranty.

REQUEST FOR ADMISSION NO. 4: Admit that on October 24, 2017, when the Subject Stripper was destroyed by fire, it was still covered by the John Deere limited product warranty.

RESPONSE: Deere admits, on October 24, 2017, the Subject Cotton Stripper was still in the applicable warranty term under the Warranty.

Deere objects to the terms “destroyed” and “covered” as vague and undefined, rendering the request vague, not relevant, and not proportional to the needs of this case, considering the issues at stake and the importance of the requested discovery in resolving the issues.

Beyond this, Deere states this request contains interdependent, compound issues because it relies on the assumption that the subject fire “destroyed” the Subject Cotton Stripper. Because Deere denies this assumption, as Deere understands the term “destroyed,” Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 5: Admit that the John Deere limited product warranty applies to the design of the subject Stripper as a whole.

RESPONSE: Deere objects to the terms “applies to the design of” and “the subject Stripper as a whole” as vague and overbroad, rendering the request vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues. This request is not limited to the systems and component parts on the Subject Cotton Stripper relevant to the subject fire and/or Plaintiff’s defect theories. Deere refers Plaintiff to paragraphs 1 and 2 of the Preliminary Statement above.

Deere objects to this request as improperly seeking an admission of a conclusion of law and/or the application of law to an incomplete set of hypothetical facts.

Accordingly, Deere denies this request.

REQUEST FOR ADMISSION NO. 6: Admit that the John Deere limited product warranty applies to the Subject Stripper’s saw drum and blade.

RESPONSE: Deere objects to the term “applies to the . . . saw drum and blade” as vague, rendering the request vague, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues.

Deere objects to this request as improperly seeking the application of law to an incomplete set of hypothetical facts.



Accordingly, Deere denies this request.

REQUEST FOR ADMISSION NO. 7: Admit that the John Deere limited product warranty applies to the bolts that secure the saw tooth drum blade on the Subject Stripper.

RESPONSE: Deere objects to the term “applies to the bolts” as vague, rendering the request vague, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action and the importance of the requested discovery in resolving the issues.

Deere objects to this request as improperly seeking the application of law to an incomplete set of hypothetical facts.

Accordingly, Deere denies this request.

REQUEST FOR ADMISSION NO. 8: Admit that the Subject Stripper had less than 10 hours of use on it at the time of the total loss fire that gives rise to this law suit.

RESPONSE: After making a reasonable inquiry, the information known or easily obtainable is insufficient to enable Deere to admit or deny whether the Subject Cotton Stripper had fewer than 10 hours of use at the time of the subject fire.

Deere objects to the term “total loss fire” as vague and undefined, rendering the request vague, not relevant, and not proportional to the needs of this case, considering the issues at stake and the importance of the requested discovery in resolving the issues.

Beyond this, Deere states this request contains interdependent, compound issues because it relies on the assumption that the subject fire was a “total loss fire.” Because Deere denies this assumption, as Deere understands the term “total loss fire,” Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 9: Admit that the John Deere limited product warranty is a promise to the purchaser that the John Deere product is free from defects in material and workmanship for a period of time specified by the warranty.

RESPONSE: Deere admits, under the Warranty—and pursuant to its specific terms, which Deere incorporates by reference into this answer—Deere promises to repair or replace, at its option, any part of new Equipment purchased from a Selling Dealer which is found to be defective in material or workmanship during the applicable warranty term.

Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 10: Admit that the John Deere limited product warranty for the Subject Stripper covered defects in workmanship and materials.

RESPONSE: Deere admits the Warranty covers, during the applicable warranty term, defects in material or workmanship of parts of new Equipment purchased from a Selling Dealer pursuant to the specific terms of the Warranty, which Deere incorporates by reference into this answer.

Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 11: Admit that the John Deere limited product warranty for the Subject Stripper was for twelve (12) months after the purchase of the Subject Stripper.

RESPONSE: Deere admits, under the Warranty, which Deere incorporates by reference into this answer, the warranty term for the Subject Cotton Stripper was 12 months.

Deere denies the remainder of this request.

REQUEST FOR ADMISSION NO. 12: Admit that John Deere limited product warranties that accompany new John Deere products are priced into the purchase price of the specific John Deere product it applies to.

RESPONSE: Deere objects to the term “priced into the purchase price” as vague and overbroad, and to the entire request as vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action or the importance of the requested discovery in resolving the issues. This request is not limited to the Subject Cotton Stripper, the systems and component parts on the Subject Cotton Stripper relevant to the subject fire and/or Plaintiff’s defect theories, or any issue material to Plaintiff’s breach of express warranty cause of action. Deere refers Plaintiff to paragraphs 1 and 2 of the Preliminary Statement above.

REQUEST FOR ADMISSION NO. 13: Admit that the John Deere limited product warranty that accompanies new John Deere products is something the consumer purchases along with the John Deere product itself.

RESPONSE: Deere objects to the entire request as vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action or the importance of the requested discovery in resolving the issues. This request is not limited to the Subject Cotton Stripper, the systems and component parts on the Subject Cotton Stripper relevant to the subject fire and/or Plaintiff's defect theories, or any issue material to Plaintiff's breach of express warranty cause of action. Deere refers Plaintiff to paragraphs 1 and 2 of the Preliminary Statement above.

REQUEST FOR ADMISSION NO. 14: Admit that there is value in the John Deere limited product warranty that accompanies new John Deere products.

RESPONSE: Deere objects to the entire request as vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action or the importance of the requested discovery in resolving the issues. This request is not limited to the Subject Cotton Stripper, the systems and component parts on the Subject Cotton Stripper relevant to the subject fire and/or Plaintiff's defect theories, or any issue material to Plaintiff's breach of express warranty cause of action. Deere refers Plaintiff to paragraphs 1 and 2 of the Preliminary Statement above.

REQUEST FOR ADMISSION NO. 15: Admit that the John Deere limited product warranty that applies to the Subject Stripper was intended to protect the purchaser if a defect in the Subject Stripper causes itself to start on fire.

RESPONSE: Deere objects to this request, in its entirety and with respect to the terms "defect" and "causes itself to start on fire," as vague, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake in the action or the importance of the requested discovery in resolving the issues. This request is not limited to the Subject Cotton Stripper, the systems and component parts on the Subject Cotton Stripper relevant to the subject fire and/or Plaintiff's defect theories, or any issue material to Plaintiff's breach of express warranty cause of action. Deere refers Plaintiff to paragraphs 1 and 2 of the Preliminary Statement above.

Deere objects to this request as improperly seeking an admission of the application of law to an incomplete set of hypothetical facts.

REQUEST FOR ADMISSION NO. 16: Admit that John Deere denied warranty coverage for the Subject Stripper.

RESPONSE: Because this request is vague and overbroad in time, Deere interprets the request as seeking information about whether Deere has ever covered repairs under the Warranty for the Subject Cotton Stripper. Given that understanding, Deere denies this request.

REQUEST FOR ADMISSION NO. 17: Admit that John Deere failed to provide an explanation for why warranty coverage was not afforded.

RESPONSE: This request contains interdependent, compound issues because the request relies on an assumption Deere denies. Accordingly, Deere denies this request and refers Plaintiff to Deere's response to request no. 16.

REQUEST FOR ADMISSION NO. 18: Admit that John Deere failed to provide an explanation to the owner of the Subject Stripper as to what caused the total loss fire on or about October 24, 2017.

RESPONSE: Deere objects to the term "total loss fire" as vague and undefined, rendering the request vague, not relevant, and not proportional to the needs of this case, considering the issues at stake and the importance of the requested discovery in resolving the issues.

Beyond this, Deere states this request contains interdependent, compound issues because it relies on the assumption that the subject fire was a "total loss fire." Because Deere denies this assumption, as Deere understands the term "total loss fire," Deere denies the remainder of this request.

### INTEGRATED INTERROGATORY

INTERROGATORY NO. 1: If any of the response to the foregoing Requests were other than an unqualified admission, state all the facts and identify all witnesses and documents that support your Response.

ANSWER: Deere generally refers Plaintiff to the answers above; to the witnesses Deere has identified and will identify in this case; and to the documents Deere has produced and will produce in this case.

Beyond this, Deere objects to this request, in its entirety and with respect to the terms “all the facts . . . that support” and “all witnesses and documents that support,” as vague and lacking reasonable particularity, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake, the importance of the requested discovery in resolving the issues, and the burden or expense of the requested discovery.

INTEGRATED REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Any and all documents used, relied upon, identified, or relating to information provided by you or your attorney in answering the Requests for Admissions and Interrogatory served contemporaneously with this Request.

ANSWER: Deere generally refers Plaintiff to the documents Deere has produced and will produce in this case.

Beyond this, Deere objects to this request, in its entirety and with respect to the term “[a]ny and all documents used, relied upon, identified, or relating to,” as vague and lacking reasonable particularity, overbroad, not relevant, and not proportional to the needs of this case, considering the issues at stake, the importance of the requested discovery in resolving the issues, and the burden or expense of the requested discovery.

STATE OF ILLINOIS                    )  
  )  
COUNTY OF ROCK ISLAND        )


SS

VERIFICATION

I, Paul Wilczynski, state that I am Assistant General Counsel of Deere & Company, and as such am authorized to sign this document.


The foregoing Defendant Deere & Company's Response to Plaintiff's Integrated Interrogatory has been prepared by others. Upon information and belief, based on their representations, I believe them to be true and correct.

Dated this 16<sup>th</sup> day of January 2020.

  
\_\_\_\_\_  
Paul Wilczynski  
Assistant General Counsel

Subscribed and sworn to before me this 16<sup>th</sup> day of January 2020.



  
\_\_\_\_\_  
Notary Public

**A. GENERAL PROVISIONS** – With respect to purchasers in the United States, "John Deere" means Deere & Company, 1 John Deere Place, Moline, IL 61265, and with respect to purchasers in Canada, "John Deere" means John Deere Canada ULC, 295 Hunter Road, P. O. Box 1000, Grimsby, Ontario L3M 4H5. The warranties described below are provided by John Deere to the original purchasers of new Agricultural, Turf and Utility Equipment ("Equipment") purchased from John Deere or authorized John Deere dealers (the "Selling Dealer"). These warranties apply only to Equipment intended for sale in Canada and the US. Under these warranties, John Deere will repair or replace, at its option, any part covered under these warranties which is found to be defective in material or workmanship during the applicable warranty term. Warranty service must be performed by a dealer or service center located in Canada or the US, and authorized by John Deere to sell and/or service the type of Equipment involved (the "Authorized Dealer"). The Authorized Dealer will use only new or remanufactured parts or components furnished or approved by John Deere. Warranty service will be performed without charge to the purchaser for parts and/or labor. However, the purchaser will be responsible for any service call and/or transportation of Equipment to and from the Authorized Dealer's place of business (except where prohibited by law), for any premium charged for overtime labor requested by the purchaser and for any service and/or maintenance not directly related to any defect covered under these warranties. These warranties are transferable, provided an authorized John Deere dealer is notified of the ownership change, and John Deere approves the warranty transfer.

**B. WHAT IS WARRANTED** – Subject to paragraph C, all parts of any new Equipment are warranted for the number of months or operating hours specified below. Each warranty term begins on the date of delivery of the Equipment to the original purchaser, (except for certain agricultural tillage, planting, cultivating, harvesting, and application Equipment which may have a delayed warranty start date, but only if established by John Deere and noted by Selling Dealer on the Purchase Order). **Included In 5E Series Tractor and Compact Utility Tractor Powertrain Warranty - Engine:** cylinder block, cylinder head, valve covers, oil pan, emissions control components, timing gear covers, flywheel housing, and all parts contained therein. **Powertrain:** transmission, transmission case, differential and axle housings, clutch housings, MFWD front axle assembly, and all parts contained therein (does not include external drivelines, dry clutch parts, or steering cylinders). **SWEEPS, SHOVELS, PLOWSHARES, AND DISK BLADES:** A replacement part will be furnished without charge if breakage occurs and the amount of wear is less than the wear limits established by John Deere.

AGRICULTURAL EQUIPMENT	WARRANTY TERM
Tractors	24 Months or 2000 Hours, Whichever Comes First
Tractors used in Earthmoving Applications exceeding 150 hours per year (except those specific models and configurations approved by John Deere as having a two year warranty in scraper applications)	90 Days
5E Series Tractors	24 Months or 2000 Hours, Whichever Comes First
a) Powertrain on 5E Series Tractors (components as per B above)	60 Months or 2000 Hours, Whichever Comes First
Scrapers	6 Months for MY14 and earlier 12 Months for D Series and MY15 and later
Frontier™ Equipment	12 months
Sugar Cane Harvesters and Loaders	12 months or 1500 hours, Whichever Comes First
All other Equipment (includes Ag Management Solutions (AMS) products)	12 Months
Premium Balers	24 Months or 12,000 bales, Whichever Comes First; First 12 Months, No Bale Limitation
Large Square Balers	12 Months, No Bale Limitation
a) Powertrain on Large Square Balers	24 Months or 20,000 bales, Whichever Comes First
Hagie Manufacturing Company LLC Sprayers	24 Months or 1000 Hours, Whichever Comes First
Engines in Self-Propelled Equipment except Tractors*	24 Months or 2000 Hours, Whichever Comes First
*Engine Items Covered in months 13 through 24 – Engine block, cylinder head, rocker arm cover, timing gear cover, crankcase pan and all parts enclosed within these units. Also included are the fuel injection pump, turbocharger, water pump, torsion damper, manifolds, and engine oil cooler. All other engine related items are not covered in months 13 through 24.	
TURF & UTILITY EQUIPMENT	WARRANTY TERM
1) Z200 Series and Z425 EZtrak™ Mowers, Z300 Series and Z525E ZTrak™ Mowers, and D100 Series Tractors**	24 Months or 120 Hours, Whichever Comes First
2) S200 Series Tractors**	36 Months or 200 Hours, Whichever Comes First
3) X300 Series Tractors; Z400 Series EZtrak™ Mowers and Z500M Series ZTrak™ Mowers (Except Z425 and Z525E)**	48 Months or 300 Hours, Whichever Comes First
4) X500 Series Tractors; Z600 Series EZtrak™ Mowers and Z500R Series ZTrak™ Mowers**	48 Months or 500 Hours, Whichever Comes First
5) X700 Series Tractors**	48 Months or 700 Hours, Whichever Comes First
6) JS Series Residential Walk-Behind Mowers	24 Months in Private Residential – Personal Use or 90 Days in Any Other Application
7) Wide Area Mowers, Front Mower Traction Units and Mower Decks, QuikTrak™ Mowers, Commercial Walk Behind Mowers	24 Months
8) Z900B, Z900E, and Z900M Series ZTrak™ Mowers	36 Months or 1200 Hours, Whichever Comes First; First 24 Months, No Hour Limitation
9) Z997, Z900A Series and Z900R Series ZTrak™ Mowers	36 Months or 1500 Hours, Whichever Comes First; First 24 Months, No Hour Limitation
10) Compact Utility Tractors	24 months or 2000 hours, Whichever Comes First
a) Powertrain on Compact Utility Tractors (components as per B above)	72 months or 2000 hours, Whichever Comes First
11) GATOR™ Utility Vehicles (except CX)	12 Months or 1000 Hours, Whichever Comes First
12) Implements/Attachments sold separately or used on Equipment listed in 7 through 11	12 Months
13) CX GATOR™**, All other Turf & Utility Equipment	24 Months in Private Residential - Personal Use or 12 Months in Any Other Application

\*\*Implements/Attachments purchased on the same Purchase Order as the Equipment listed will be covered by the Equipment's warranty terms. Implements/Attachments purchased separately will be covered by the warranty term on line 12.

**C. (I) ITEMS COVERED SEPARATELY** – (1) Tires, rubber tracks and batteries; (2) John Deere Hand Held-Portable products; (3) John Deere Walk Behind Snowthrowers; (4) When applicable, a separate emissions warranty statement will be provided by Selling Dealer.

**(II) WHAT IS NOT WARRANTED** – Pursuant to the terms of these warranties, JOHN DEERE IS NOT RESPONSIBLE FOR THE FOLLOWING: (1) Used Equipment; (2) Any Equipment that has been altered or modified in ways not approved by John Deere, including, but not limited to, setting injection pump fuel delivery above John Deere specifications, modifying combine grain tanks, and modifying self-propelled sprayers with unapproved wheels, tracks, tanks or booms; (3) Depreciation or damage caused by normal wear, lack of reasonable and proper maintenance, failure to follow operating instructions/recommendations; misuse, lack of proper protection during storage, vandalism, the elements or collision or accident; (4) Normal maintenance parts and/or service, including but not limited to, oil, filters, coolants and conditioners, cutting parts, belts, brake and clutch linings; (5) Any Utility Vehicle used for racing or other competitive purpose; (6) Chains on Premium Balers.

**D. SECURING WARRANTY SERVICE** – To secure warranty service the purchaser must, (1) Report the Equipment defect to an Authorized Dealer and request warranty service within the applicable warranty term; (2) Present evidence of the warranty start date with valid proof of purchase; and (3) Make the Equipment available to an Authorized Dealer within a reasonable time.

**E. NO IMPLIED WARRANTY, REPRESENTATION OR CONDITION** – To the extent permitted by law, neither John Deere nor any company affiliated with it makes any warranties, representations, conditions or promises express or implied as to the quality, performance or freedom from defect of the Equipment covered by these warranties other than those set forth above, AND NO STATUTORY OR IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS ARE MADE. TO THE EXTENT LEGALLY REQUIRED, ANY IMPLIED WARRANTIES OR CONDITIONS SHALL BE LIMITED IN DURATION TO THE APPLICABLE PERIOD OF WARRANTY SET FORTH ON THIS PAGE. THE PURCHASER'S ONLY REMEDIES IN CONNECTION WITH THE BREACH OR PERFORMANCE OF ANY WARRANTY ON JOHN DEERE EQUIPMENT ARE THOSE SET FORTH ON THIS PAGE. IN NO EVENT WILL THE DEALER, JOHN DEERE OR ANY COMPANY AFFILIATED WITH JOHN DEERE BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. (Note: Some jurisdictions do not allow limitations on how long an implied warranty lasts or the exclusion or limitation of incidental or consequential damages so the above limitations and exclusions may not apply to you.) In the event the above warranty fails to correct purchaser's performance problems caused by defects in workmanship and/or materials, purchaser's exclusive remedy shall be limited to payment by John Deere of actual damages in an amount not to exceed the amount paid for the Equipment. This warranty gives you specific legal rights, and you may also have other rights which vary from jurisdiction to jurisdiction.

**F. NO DEALER WARRANTY** THE DEALER HAS NO AUTHORITY TO MAKE ANY WARRANTY, REPRESENTATION, CONDITION OR PROMISE ON BEHALF OF JOHN DEERE OR TO MODIFY THE TERMS OR LIMITATIONS OF THIS WARRANTY IN ANY WAY.

**G.** If further information is desired, contact Selling Dealer or John Deere at 1-866-993-3373 (Agricultural) or 1-800-537-8233 (Turf & Utility Equipment).

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

-----  
NATIONWIDE AGRIBUSINESS INSURANCE

CO., Et Al,

Plaintiff,

CIVIL ACTION NO.:

4-19-CV-00425-0

vs.

DEERE & COMPANY,

Defendant.  
-----

VIDEO-CONFERENCE 30(b)(6) DEPOSITION OF

TRACE LANDERS

Taken JUNE 10, 2020

Commencing at 9:00 A.M.

DATE: JUNE 10, 2020

TIME: 9:00 A.M.

PLACE: Moline, Illinois

REPORTED BY: Mari Skalicky, RMR, CRR  
(via video-conference)

JOB NO.: MW 4136995



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1 Q. Does John Deere have a warranty  
2 department?  
3 A. A warranty department? I wouldn't say  
4 it's a warranty department, but it is  
5 people allocated to look at and deal with  
6 and, you know, inspect, deal with  
7 warranty. It's typically a portion of  
8 their job.  
9 Q. Do you know anything about the corporate  
10 structure of how the warranty evaluation  
11 process is set up?  
12 A. Can you clarify that question?  
13 Q. Well, as I understood your answer is that  
14 there is a lot of people maybe that have  
15 some involvement in warranty aspects as  
16 part of their job at Deere?  
17 A. Right.  
18 Q. But you said that there wasn't a warranty  
19 department?  
20 A. Right.  
21 Q. I'm wondering, I mean, really just talking  
22 very broad, big block on stuff here, is  
23 there an aspect of Deere that is assigned  
24 to evaluating --  
25 A. Yeah.

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1 Q. -- taking in warranties?  
2 A. So it's more of a process. When a  
3 customer has an issue that they feel is a  
4 defect and may warrant warranty, they will  
5 report back to their dealer, an approved  
6 dealer. And the dealer at times, most of  
7 the times he's going to work with the DTAC  
8 person, so that's a dealer technical  
9 assistant contact. And so that by working  
10 with them, that gets back to us. A lot of  
11 times so the DTAC, if he -- a lot of times  
12 they have solutions, they've dealt with  
13 these issues in the past quite a bit.  
14 If it gets past them, a lot of times  
15 the DTAC folks may need to talk to  
16 engineers or folks like myself, fire  
17 engineers, to help them out with the  
18 assistance and to make determinations of  
19 warranty, whether it's warranted, whether  
20 it's not.  
21 So like I say, department, specific  
22 department, no, but there are many, many  
23 people within John Deere that are very  
24 capable that deal with warranty.  
25 Q. Sure. The process that you just

Page 16

1 described, you said that that was done for  
2 the purpose of investigating whatever the  
3 problem is in determining warranty  
4 coverage?  
5 A. Right.  
6 Q. Do you have an idea or can you give me a  
7 general idea as to how long that process  
8 is intended to last?  
9 A. There is no documented or, I mean, each  
10 case is different. Each failure is  
11 different to, you know, some failures can  
12 take a day or two to fix if we have parts.  
13 Others maybe we have to order parts from  
14 the parts depot. So there is no  
15 documented or set rule on how long that  
16 will take.  
17 Q. Outside of having to order parts, how long  
18 is the process of evaluating the cause and  
19 making a determination of warranty  
20 coverage? How long is that intended to  
21 take? Obviously, if you determine you  
22 have to order parts and there is a tail to  
23 that, but that shorter process of  
24 evaluating and coming to a determination,  
25 how long does that take?

Page 17

1 A. Well, it's not that straightforward. It  
2 depends on the, you know, severity of the  
3 failure, severity of the loss, you know,  
4 obviously if it's just a simple sheared  
5 nut or bolt or something or if it's more  
6 involved, you know, other components that  
7 are larger and need more analysis, that's  
8 going to take longer. So there is really  
9 not a cut-and-dried answer I can give you.  
10 Q. You referenced a sheared nut or bolt as a  
11 possible scenario. Is that the type of  
12 scenario that gets evaluated for warranty  
13 coverage?  
14 A. It depends. At times, yes, it would be.  
15 Q. Give me a scenario or describe a scenario  
16 when it would at times be evaluated for  
17 warranty coverage?  
18 A. A time when it could get evaluated for  
19 warranty would be say you have a tractor,  
20 you have an implement, maybe a nut or bolt  
21 falls off on the piece of tillage  
22 equipment and maybe you lose a disc or  
23 something on an implement, and it would  
24 have to be -- so it would have to be --  
25 that implement would have to be in that

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1 warranty period, whatever that warranty  
 2 period would be.  
 3 Say it's 12 months, and then someone  
 4 in that list of people I provided to you  
 5 would have to analyze that from Deere, and  
 6 we'd have to see if it was a defect of  
 7 material or workmanship. If it was indeed  
 8 a defect of material or workmanship, then  
 9 we would repair or replace that component  
 10 or part that was found to be defective.  
 11 Q. You said that you had given us a list of  
 12 people. I may have missed it in terms of  
 13 how you testified to that. Can we talk  
 14 about that list of people that would be  
 15 involved in that warranty process?  
 16 A. Yeah.  
 17 Q. You said, I mean, you described an  
 18 instance where a customer might go into a  
 19 dealership and the dealership, not John  
 20 Deere, but the dealership might be working  
 21 with DTAC employees, right, or DTAC  
 22 operators?  
 23 A. Correct.  
 24 Q. Who else at Deere would be involved in the  
 25 warranty evaluation process?

Page 19

1 A. In the -- okay, so in the warranty  
 2 evaluation process, potential engineers  
 3 help make the decision on whether or not a  
 4 failure, you know, how a failure occurred.  
 5 DTAC folks that have history with similar  
 6 failures, you know, those are two of the  
 7 big ones. Are you looking for -- to make  
 8 technical determinations, is that what  
 9 you're getting at?  
 10 Q. No. I'm looking from A to B. I'm looking  
 11 for, if I have a lawn tractor from John  
 12 Deere that's under warranty, and I bring  
 13 it to the dealership, who am I going to  
 14 deal with at Deere?  
 15 A. Okay.  
 16 Q. I mean, from the very starting point, do I  
 17 have to send a form in? How do I have to  
 18 notify you? What's step 1, 2, 3 through  
 19 the end?  
 20 A. Okay. So I understand. So what the  
 21 customer would do is contact an approved  
 22 John Deere dealer that would be able to  
 23 perform the work. They would be  
 24 responsible for providing that machine to  
 25 the dealer, you know, for inspection to

Page 20

1 see what's wrong with it. If it is  
 2 something that would be warrantable,  
 3 meaning, we have a defect of material or  
 4 workmanship, you know, and I've mentioned  
 5 all the folks that may need to help in  
 6 that determination, being a DTAC  
 7 representative, potentially an engineer  
 8 from John Deere, potentially a fire  
 9 engineer from John Deere.  
 10 And then when that happens, if that  
 11 is approved, Deere would replace at no  
 12 cost, repair or replace that defective  
 13 component on this particular machine.  
 14 Q. Is it just that group of people that you  
 15 just described that makes the  
 16 determination of if it is approved as you  
 17 testified, potential DTAC employee, an  
 18 engineer, and/or a potential fire engineer  
 19 from John Deere?  
 20 A. Those are the ones I'm involved with most  
 21 often.  
 22 Q. Beyond who you might be involved with,  
 23 Mr. Landers, you're here to testify more  
 24 broadly as to the John Deere process as a  
 25 whole, right?

Page 21

1 A. Right.  
 2 Q. So who else besides those possible three  
 3 people would be involved in evaluating,  
 4 taking in information on warranty claims,  
 5 evaluating them, helping in the decision  
 6 process and determining whether or not it  
 7 is or is not approved?  
 8 A. Well, I mean, if when we see history of  
 9 warranty, we see similar history, the  
 10 quality control department at the factory,  
 11 quality would get involved. You know,  
 12 that's outside probably the process,  
 13 looking to make improvements down the  
 14 road. You know, it's potential that those  
 15 are some of the folks that would get  
 16 involved as well.  
 17 I mean, I've really listed quite a  
 18 few of the folks that I work with. I  
 19 don't really have too many more names here  
 20 for you.  
 21 Q. Well, we haven't talked about any names,  
 22 but we've talked about three --  
 23 A. I said positions.  
 24 Q. -- three positions, and if that's the  
 25 entire universe that John Deere uses to

<p style="text-align: right;">Page 190</p> <p>1 going to get a chance to depose him. If 2 you're saying you're going to depose him 3 now -- 4 MR. TAYLOR: No. No. No. No. I 5 could but -- 6 MR. BLACKERBY: You're going to have 7 a chance to talk to him at length about 8 what he thought about broken bolt heads. 9 MR. TAYLOR: I'm talking about the 10 warranty. This is not -- this is 11 different. This is in the warranty 12 process, he's been talking about the 13 warranty process. He is here designated 14 as that guy. And I'm asking him and then 15 he inserted himself into saying that. If 16 he wants to say that that inserting me in, 17 is that's my fire investigator role, I 18 won't talk about that, that's fine, but 19 the question that is on the table and what 20 is being currently explored is, what did 21 Deere know at the time of denying it, and 22 that is not February 18th of 2020 when 23 Mr. Landers gets involved. 24 MR. BLACKERBY: Right. I got it. So 25 going back --</p>	<p style="text-align: right;">Page 192</p> <p>1 I think we've got hours to talk about the 2 bolts. 3 MR. BLACKERBY: Right. 4 BY MR. TAYLOR: 5 Q. But in terms of investigating this 6 warranty, this warranty claim, from -- and 7 now that we know you knew about the broken 8 bolts on or about December 13th of 2017, 9 what steps did John Deere take to further 10 investigate the cause of those broken 11 bolts before it denied warranty? Were 12 there metallurgical exams? Were there 13 material exams? What other steps were 14 taken? 15 A. So I mentioned this before. I looked into 16 the assembly print of the cleaner, okay. 17 I looked at that print just to see how it 18 was assembled, what were the quality 19 control measures, and just to see what the 20 likelihood is that something like that 21 could occur. Gave me John Rupert's name, 22 and I talked to him about it. 23 MR. BLACKERBY: Hey, Dave, Dave. 24 MR. TAYLOR: Yes. 25 MR. BLACKERBY: This would be a time</p>
<p style="text-align: right;">Page 191</p> <p>1 MR. TAYLOR: I'm sorry. 2 MR. BLACKERBY: I'm just -- I know 3 you and I have had a conversation before 4 this. He's given expert opinion. It 5 addresses in part these bolts. That's 6 part of his designated expert opinions. 7 He's already said that Deere looked at 8 these notes and report and photographs and 9 that's what he, as part of their decisions 10 to make a decision on the claim of 11 liability, that when the claim of warranty 12 was a claim of liability by Nationwide. 13 MR. TAYLOR: The only link for -- I 14 mean, we can tip-toe around that 15 distinction. The only link for the 16 liability is the claim for warranty. 17 MR. BLACKERBY: You're right. Now 18 that you filed suit. 19 MR. TAYLOR: No. Once Cody bought 20 that product, there is a potential claim 21 for liability. And that's the reality. 22 And once they were on notice, but I mean, 23 be that as it may, this is a different 24 thing than the fire investigation. And I 25 don't need to talk to him about the bolts.</p>	<p style="text-align: right;">Page 193</p> <p>1 I would normally get for break. I don't 2 know if you're getting close to being 3 done. 4 MR. TAYLOR: I'm getting real close. 5 MR. BLACKERBY: Couple of minutes or 6 something? 7 MR. TAYLOR: Probably. 8 MR. BLACKERBY: Okay. 9 BY MR. TAYLOR: 10 Q. I actually I have to look at some pictures 11 real quick, but I'm tell you what, you 12 give me five minutes, then I'll have it 13 consolidated and we'll be quick. 14 MR. BLACKERBY: Okay. 15 (A brief recess was taken.) 16 A. I'm going to maximize this here. 17 BY MR. TAYLOR: 18 Q. Mr. Landers, before we broke, we did have 19 a very short, minor discussion on bolts. 20 I just want to ask a very simple question. 21 Typically speaking, are bolts on John 22 Deere products warranted items? 23 A. Bolts, if they had a defect of material or 24 workmanship could be. 25 Q. What does John Deere do to determine</p>

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1 whether or not a bolt that is alleged to  
 2 have been defective and under warranty,  
 3 what does John Deere do to determine  
 4 whether or not that bolt is defective in  
 5 workmanship or material?  
 6 A. They would have to inspect it. They would  
 7 have to do a metallurgical analysis of it.  
 8 Zinc coating analysis. They would  
 9 basically have to inspect it to the print.  
 10 Q. And that would likely require taking the  
 11 bolt and doing some physical work on it  
 12 itself, right?  
 13 A. Right.  
 14 Q. And that is what John Deere would believe  
 15 is necessary to determine whether or not a  
 16 bolt that is alleged to have been  
 17 defective and under warranty was in fact  
 18 defective in workmanship or material,  
 19 right?  
 20 A. Right.  
 21 Q. You understand that the allegations for  
 22 this warranty claim are that there were  
 23 broken bolt heads and John Deere denied  
 24 warranty coverage based on the fact that  
 25 its investigation was undetermined in

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1 terms of the cause of the fire, right?  
 2 A. Right.  
 3 Q. You also understand that John Deere has  
 4 not done any metallurgical analysis on any  
 5 of the broken bolt heads to determine, as  
 6 you say, whether or not they were  
 7 defective in material or workmanship,  
 8 which is what you say would have been a  
 9 necessary step that John Deere could take?  
 10 A. So -- and you're mentioning the four or  
 11 five that are broke on this machine?  
 12 Q. I'm talking, generally speaking, about  
 13 what would be needed to be done to look  
 14 into a bolt and determine whether or not  
 15 it's defective. You talked about that.  
 16 And then I'm asking you to  
 17 acknowledge that that was not done in this  
 18 case.  
 19 A. Can I -- in this case, this specific case  
 20 on these bolts that broke, it was not  
 21 done.  
 22 Q. Right.  
 23 A. But can I expand on that?  
 24 Q. I don't want to get into your fire  
 25 analysis, because I think that's what

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1 you're going to explain to me.  
 2 A. Okay. Then we'll leave it.  
 3 Q. Yeah. The bottom line is that typically  
 4 if Deere was to investigate whether or not  
 5 a bolt that is alleged to have been  
 6 defective and under warranty, that  
 7 typically Deere would take that to a  
 8 metallurgical exam or some sort of  
 9 materials exam, even though that was the  
 10 allegation in this case, that was never  
 11 done, correct?  
 12 MR. BLACKERBY: Form.  
 13 BY MR. TAYLOR:  
 14 Q. Correct, Mr. Landers?  
 15 A. Correct. A bolt of that size that's been  
 16 through a fire?  
 17 Q. You, sir, are not a metallurgist, and I  
 18 would venture to guess you should stop the  
 19 testimony on that regard there.  
 20 The fact of the matter is that it was  
 21 not looked at?  
 22 A. Right.  
 23 Q. I just want to make sure I've got  
 24 everything covered.  
 25 Sir, did we talk about all of the

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1 additional information that was collected  
 2 by Deere between December 17th and May of  
 3 2019? Is there anything else that you can  
 4 think of that was done by Deere in terms  
 5 of furthering its investigation in that  
 6 time frame?  
 7 A. No.  
 8 Q. Would you agree with me that regardless of  
 9 whether or not we're talking about one of  
 10 these minor warranty-type claims or even a  
 11 more significant one, or one involving a  
 12 fire, that it is Deere's position that it  
 13 is their exclusive providence to determine  
 14 whether or not something is or is not  
 15 defective?  
 16 A. When you say "their," meaning?  
 17 Q. Deere. That your warranty document  
 18 basically says, we will warrant these  
 19 products to be free from defects in  
 20 workmanship and material, and your  
 21 exclusive -- and that is going to be  
 22 determined in our own estimation, and your  
 23 exclusive remedy is going to be repair,  
 24 replacement of those defective materials,  
 25 that's what the obligation is, right?

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24	shorthand, at The Hampton Inn, 302 SE Georgia Avenue,	18	Equipment and Limited Warranty for New
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	ACCURACY PLUS REPORTING SERVICES (325) 677-3355		ACCURACY PLUS REPORTING SERVICES (325) 677-3355

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6	Minneapolis, MN 55402	4	
7	612.338.6000	5	10 - ..... ---
8	dtaylor@yostbaill.com		(No exhibit)
9	ATTORNEY FOR THE PLAINTIFF	6	
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11	GERMER BEAMAN & BROWN, PLLC		(Text messages)
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		25	



<p style="text-align: right;">Page 13</p> <p>1 A. Yeah. The C and the S, I mean, I know you're 2 familiar, but the "CS" stands for cotton stripper, and 3 then the model is a 690. 4 Q. Right. Do you -- and I know you mentioned that 5 CWH owned that machine? 6 A. Yes, sir. 7 Q. Did you own -- does it own other machines as 8 well as that subject machine? 9 A. Oh, yes, like as far as other farm equipment? 10 Q. Yes. 11 A. Yes, sir. Yeah, we're -- I would say 99.9 12 percent of our farm equipment is John Deere brand except 13 for a Skid Steer that is a Kubota. 14 Q. Well, we'll forgive you. 15 Do you have any other -- did you have any 16 at the time -- going back to October 24th, 2017, did you 17 have other cotton strippers or just one, just one 18 machine? 19 A. No. Okay. And I just want to paint the 20 picture -- 21 Q. Sure. 22 A. -- of '17. This was a time where the CS690s, 23 they've always been around for a cotton picker, but at 24 the time they were the new thing, latest and greatest, 25 you know, coming out, supposed to do the job of two</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes, sir. 2 Q. Prior to that, you had a 7460, which -- and 3 other equipment -- 4 A. Yeah. 5 Q. -- that you had to use because you had to have 6 multiple pieces of equipment; right? 7 A. Yes, sir. 8 Q. Okay. 9 A. Yeah. 10 Q. And it's -- you've already kind of said it -- 11 A. Yeah. 12 Q. -- but one of the things that happened around 13 2017 is that Deere came out with a new machine that 14 would do multiple jobs -- 15 A. Yes. 16 Q. -- and basically make it more efficient; is 17 that right? 18 A. Yes, sir. Yes, that is correct. 19 Q. And so the subject machine -- and when I talk 20 about "subject machine" or whatever, I'm going to be 21 referring to the one that was involved in the fire. If 22 I'm going to refer to some other machine -- 23 A. Okay. 24 Q. -- I'll specify; okay? 25 A. Yes, sir.</p>
<p style="text-align: right;">Page 14</p> <p>1 cotton strippers. And we did -- we have always had one, 2 a 7460, which is a basket cotton stripper. And this 3 requires, you know, an operator; then you have to have a 4 bow buggy operator, tractor and a bow buggy. And then 5 you have to have a builder and another tractor to 6 actually build the module. So it's -- you know, there's 7 three people out there, three employees, and all the 8 farm equipment tied up. 9 Well, we have always -- we kind of grew our 10 operation over the years, and so it was getting to a 11 point where we were having to hire out our -- more help 12 and it was costing us money, and we -- when -- we knew 13 the cotton stripper was going to -- or the CS690 was 14 going to be available in '17, and so we had ordered it 15 back in the end of '16, rather. 16 And so, basically, we were just trying to 17 be more efficient with our employees and go forth, 18 and so we traded in our 7460, rolled the equity into 19 this new machine, because you see the price tag on it, 20 and we sold our bow buggy and we sold our builder, and 21 that's how we ended up with the CS690 -- 22 Q. Got it. 23 A. -- from the factory -- or from Deere. 24 Q. And so at the time when the fire occurred, you 25 had one -- just one machine?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. So the subject machine was the first time you 2 got a CS650 (sic); is that right? 3 A. Yes. That was the -- 4 Q. Or 690? 5 A. -- that was the first year we had ran it. My 6 neighbor at the time, he -- he actually had the 7 prototype sent to him to run and so, you know, we were 8 watching it, looking across the turnrow, watching it and 9 seeing how -- how many more acres, like, he could 10 harvest a day just with one person. It was kind of 11 amazing, you know, to sit there and watch. 12 And so we -- I rode with him, went over a 13 few things with him. His operator -- actually some of 14 the Deere engineers come down and actually he has them 15 on speed dial, you know, because they can critique 16 things and kind of report back because the stripper was 17 totally different than the picker because the picker has 18 been around for, man, probably five or six years prior 19 to the -- them releasing this cotton stripper version. 20 Q. And just -- I know we're using names that 21 are -- 22 A. Yes. 23 Q. -- very -- the terms that are familiar to you. 24 The picker -- 25 A. Yes.</p>

<p style="text-align: right;">Page 37</p> <p>1 get to you?</p> <p>2 A. Yes, sir.</p> <p>3 Q. How long do you -- how long before that do you</p> <p>4 think you ordered it?</p> <p>5 A. Oh, man, I'd have to look back there, but I</p> <p>6 think it's in that timeline.</p> <p>7 Q. That's fine. That's fine. Just roughly, if</p> <p>8 you could.</p> <p>9 A. I would say it -- I mean, it's like almost</p> <p>10 12 months prior. Like, when you're -- well, I can tell</p> <p>11 you when because Jeff would call because what we were</p> <p>12 trying to do is assign a value of our 7460, which you</p> <p>13 can see here he has a notation of "855 to 773," because</p> <p>14 at the time we were trying to get into this new machine,</p> <p>15 this new CS690, we were trading in that 7460, which is</p> <p>16 right there in the trade-in information, and he assigns</p> <p>17 the value based on the fan hours.</p> <p>18 So he would call us and say, "Hey, are you</p> <p>19 done?" And basically, they already had that machine</p> <p>20 sold. Like, he had it spoken for. They were waiting</p> <p>21 for us to get our crop out before he actually took</p> <p>22 possession of it, so ...</p> <p>23 Q. Okay.</p> <p>24 A. So, yes, I would say if that was August of '17,</p> <p>25 we made -- we agreed to sell it probably in October or</p>	<p style="text-align: right;">Page 39</p> <p>1 (Deposition Exhibit No. 3 marked)</p> <p>2 Q. (BY MR. BLACKERBY) Okay. And Exhibit 3 looks</p> <p>3 like it's dated around the same time as Exhibit 2, and</p> <p>4 that looks like a security agreement?</p> <p>5 A. Yes, sir. It's in this notebook, but, yes,</p> <p>6 that is -- that is where it shows our down payment and</p> <p>7 then what we actually financed, and we financed it</p> <p>8 through Deere.</p> <p>9 Q. Okay. So you financed the purchase price</p> <p>10 through John Deere Financial?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Now, you mentioned that, when you purchased</p> <p>13 this machine you got some training, a bunch of training,</p> <p>14 when they came out and showed you how to do -- do</p> <p>15 everything; is that right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Kind of tell us -- break it down to us. So you</p> <p>18 purchased the machine, they delivered it to you, and</p> <p>19 then at some point you get training. Tell us about the</p> <p>20 training that you were provided and what they were</p> <p>21 training you on.</p> <p>22 A. Okay. It's basically all the stuff that</p> <p>23 when -- at the time when there was -- I don't believe</p> <p>24 how many -- I don't remember exactly how many Hurst sold</p> <p>25 in '17, but they sold quite a few. They invited -- they</p>
<p style="text-align: right;">Page 38</p> <p>1 November of '16.</p> <p>2 Q. Okay. When did you actually take -- I know</p> <p>3 that was when money exchanged hands. When did you take</p> <p>4 delivery of the subject machine?</p> <p>5 A. We took delivery -- it would have been in the</p> <p>6 spring, probably April or May of '17.</p> <p>7 Q. Okay. So you took delivery of the machine in</p> <p>8 April or May, and then --</p> <p>9 A. Yeah.</p> <p>10 Q. -- Exhibit 2 was signed in August?</p> <p>11 A. Yes, because -- and they already had, you know,</p> <p>12 we were already approved for, like, to do the purchase,</p> <p>13 but to actually -- when they delivered the thing,</p> <p>14 instead of it going -- no, it got delivered up to, like,</p> <p>15 Lorenzo, I believe, and they actually put together --</p> <p>16 they put together the machine up there. I mean, it's</p> <p>17 put together in the factory, but, like, attaching the</p> <p>18 basket, it's stuff, like, that was shipped.</p> <p>19 Q. Sure.</p> <p>20 A. Yes, sir. But I want to say, it might have</p> <p>21 been August -- I mean, like I said, it's been so long</p> <p>22 ago. I want to say, when we signed the deal, Jeff --</p> <p>23 we've done business with them, like, they went ahead and</p> <p>24 delivered the machine to our shop, but we came up and</p> <p>25 did the paperwork, like, in August or whatever.</p>	<p style="text-align: right;">Page 40</p> <p>1 do it every year. They invited the new purchasers of</p> <p>2 the CS690s, the cotton strippers, this new baler. And</p> <p>3 then they even put on another clinic for, like, the</p> <p>4 basket machines. And at that meeting they walked us</p> <p>5 through the maintenance, fire procedures, anything --</p> <p>6 and it's where you could -- you could ask questions</p> <p>7 and -- but one of the big deals was the fire.</p> <p>8 I mean, they basically said, you know, to</p> <p>9 have a water trailer out in the field because they know</p> <p>10 that these were prone to catch on fire, and there's no</p> <p>11 doubt about it. And actually, when we signed this</p> <p>12 agreement, there's a portion in this financing statement</p> <p>13 that says you can insure it through John Deere. But one</p> <p>14 of the big downfalls is they do not insure it for fire.</p> <p>15 Q. Okay. And the reason that that is true is fire</p> <p>16 is a known hazard with this type of equipment; is that</p> <p>17 right?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Is that -- is that -- is that specific to this</p> <p>20 particular machine or all cotton pickers in general</p> <p>21 or --</p> <p>22 A. Oh, I mean, any type of harvest equipment is</p> <p>23 prone to --</p> <p>24 Q. And why is that?</p> <p>25 A. Well, number one, it's a dry crop. Any type --</p>

<p style="text-align: right;">Page 49</p> <p>1 A. Uh-huh. And it walks through the fire 2 procedure. 3 Q. And that's -- and you recognize that? 4 A. Oh, yeah. Yeah, I watched that video. It's 5 pretty -- I mean, it's kind of boring, but, yeah, I 6 watched it one day in my living room. 7 Q. So you -- you -- and did you read -- go through 8 and read the operator's manual? 9 A. Yeah. I wouldn't say I read it, like, front to 10 back, but, yes, I know what it is. I've looked at it, 11 but ... 12 Q. It's pretty hard to read front to back -- 13 A. Yes, sir. Yeah. 14 Q. -- because it's pretty long. But you made 15 yourself familiar with the contents? 16 A. Oh, yes, sir. Yeah. 17 Q. And you read and watched the video which 18 included the things you need to do in case of fire? 19 A. Yeah. Which is one thing we were deathly 20 afraid of. 21 Q. And you felt like you were prepared based 22 upon -- 23 A. Oh, yes. 24 Q. -- all the training in the video and the 25 materials, what to do?</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. When did you -- when did you first start using 2 the machine in the field? 3 A. The 23rd of October. 4 Q. So the first day? 5 A. The first day. 6 Q. And who was the operator? 7 A. I was. 8 Q. Did anybody else ever operate besides you? 9 A. No. Our farmhand was in the field with me. 10 Q. Okay. So take us to the first day. It's 11 October 23rd, 2017, and you were getting ready to do 12 your first work in the field. 13 A. Yeah. Okay. So, that morning of the 23rd, 14 that's when Brad Davis, the shop foreman there at 15 Snyder, Cade, a mechanic from Hurst -- and they came to 16 the shop and we had it all ready to go, like, had the -- 17 like, I don't know exactly if -- when they actually 18 installed the cameras, but I think it was prior to this 19 23rd day. It comes standard with, like, two cameras, 20 but I believe we put two more cameras on the machine 21 just to -- there's some -- like, you want to be able to 22 watch the wrapping mechanism in the back to make sure it 23 doesn't mis-wrap or anything, and that's when they did 24 the walk-through with you. 25 And then that evening, which was around --</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Yes. And then, you know -- well, you know, but 2 that's the deal -- like, you've got to start sometime 3 and so we took it to the field, the machine, and -- 4 Q. Hold on a second. Hold on a second. I'm going 5 to let you get there. Hold on. 6 A. All right. 7 Q. So you purchase it; we do this -- you sign the 8 agreement; you take delivery of the machine. Do you 9 remember when it actually came into your possession 10 where you could start operating it? Do you remember 11 when that happened? 12 A. Well, that's when I'm -- yeah, it says 13 August 7th. You know, that's probably -- I know it 14 showed up and we put it inside of our shop and it sat 15 there for, like, months before we actually went to the 16 field with it. 17 Q. Okay. This fire occurred on October the 18 24th, 2017? 19 A. The first fire. 20 Q. The fir -- well, my understanding was there 21 were two fires. One was on October the 23rd, 2017 -- 22 A. Yes, sir. 23 Q. -- and the main one was on the next day; is 24 that right? 25 A. Yes, sir. That's correct.</p>	<p style="text-align: right;">Page 52</p> <p>1 I'd say we took it to the field, it was probably around 2 5:00 that evening. It was a beautiful day, you know, 3 October, like, fall day. Pull in the field, you know, 4 put it into harvest mode, go around just -- you know, 5 I'm nervous because this is the first time I'm going to 6 be with our own machine, because I've ran these before, 7 like I said, with my -- a neighbor. And I even did the 8 fire procedure. I showed -- he showed me how to do it 9 in the field about a week prior. They were already 10 harvesting before we were. 11 When I took it to the field that day on the 12 23rd, I pulled in. We have turnrows, and I pulled it 13 in, you know, checked everything, put it in harvest 14 mode, and took off. And, of course, you know, in the 15 back of your mind you're -- all the training, all 16 everything you had, like, the fire is still the biggest, 17 like, threat or, you know, the biggest deal you're 18 watching for. 19 And so I was, like, "You know what? I'm 20 going to do the fire procedure," so I did it twice. I 21 harvested. And you've got to get the bale up to, I 22 believe it was, a minimum of like -- like 18 inches 23 diameter because inside the screen it's showing you the 24 inches, how big the bale is in the actual RMB unit. And 25 it got up big enough and I stopped, did the fire</p>



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1 procedure, kicked it out, which is moving -- getting the  
 2 bale wrapped and moving it to the handler and letting it  
 3 on the ground.  
 4 I did it again just to make sure everything  
 5 was -- you know, I knew how to get the bale out of the  
 6 machine. And our hand, the reason he was there is he  
 7 brought our water trailer because we were trying to be  
 8 prepared as much as we could. And the reasoning we  
 9 brought the water trailer out is that training in  
 10 Lorenzo, Joe Hurst says, like, "Have a water trailer in  
 11 the field because when you dial 911 it's going to be  
 12 45 minutes before the fire department can get there and  
 13 find you in a remote location and, you know, the damage  
 14 is going to be done," and that they didn't have any  
 15 other machines available, so that was in our head. But  
 16 after that, did the fire procedure.

17 Q. Can I stop you right there? When you say "the  
 18 fire procedure" --  
 19 A. Yeah.  
 20 Q. -- for the folks on the jury, whatever, who  
 21 don't know what the fire procedure is, what is the fire  
 22 procedure?  
 23 A. Okay. At that time -- it's pretty complicated,  
 24 I mean, but what you have to do, and now knowing how it  
 25 is, like, when you're actually on fire, you know, you

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1 can sit there and say you're going to run out the door  
 2 in the case of a fire going. When it actually happens,  
 3 your adrenaline is up and a lot of stuff can happen.  
 4 But we -- the fire procedure in this  
 5 machine is you -- you hold your -- your foot down. It  
 6 looks like a dimmer switch in, like, an old pickup. I  
 7 don't know if you've ever had a pickup that had the  
 8 dimmer switch. You hold your foot down on it. And what  
 9 this does is it sends the cotton from the accumulator  
 10 that's already come through the cleaner, so basically  
 11 you're trying to get all of the cotton out of the  
 12 machine.

13 So you're taking it all out of the  
 14 accumulator and the baler is sitting there running.  
 15 Then -- I mean, this has been two years ago, but then  
 16 you have to hold, press left on the -- to engage the  
 17 baler; then you've got to press and hold it to get the  
 18 RMB unit to actually kick the bale out after it's  
 19 wrapped. So that is the fire procedure. It's to get  
 20 the cotton out of the machine.

21 Q. Okay. You mentioned RMB unit. That stands  
 22 for --

23 A. Round bale module.

24 Q. Okay.

25 A. That's the actual big green portion of the

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1 machine on the back end that looks like a hay baler.

2 Q. And we may have talked about this, but the  
 3 whole purpose of this machine is you take it to this  
 4 field of cotton, it strips the cotton, bales it --

5 A. Yes.

6 Q. -- in a round bale and spits it out the back;  
 7 right?

8 A. Yes, all on the go.

9 Q. All right.

10 A. No stopping.

11 Q. All right. No stopping. Unlike the previous  
 12 machines?

13 A. Oh, yeah, where you'd stop, wait on the bow  
 14 buggy, dump it, and then go.

15 Q. Okay. And -- and part of what you're  
 16 explaining when you say "the fire procedure" is that  
 17 part of the thing you need to do is get the cotton out  
 18 of the machine --

19 A. Yes.

20 Q. -- in case there's a fire?

21 A. Yes.

22 Q. And that was the procedure that was prescribed  
 23 to get the fire -- the cotton out of the machine as fast  
 24 as possible?

25 A. Yes, exactly.

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1 Q. Now, you were saying that -- now, we're going  
 2 back to the 23rd.

3 A. Yeah.

4 Q. You said you got on the machine. I think you  
 5 said you started operating around 5:00?

6 A. Yes, sir.

7 Q. Okay. And you ran through this fire procedure  
 8 a couple of times?

9 A. Yes, I did.

10 Q. Then tell us -- take us from there.

11 A. Okay. So then it's on a field down by my house  
 12 and it's long rows. They're probably half-mile rows of  
 13 cotton, straight rows. I take off and I kick out -- it  
 14 was either one -- you know, it -- so basically when  
 15 you're running this machine it has an auto mode, so it  
 16 knows -- it has a sensor in there, when the cotton gets  
 17 so far up in the accumulator, it automatically starts  
 18 the RMB baling mechanism because it's not running the  
 19 whole time. So it bales until the accumulator is empty;  
 20 then it cuts off; you harvest. The accumulator fills up  
 21 again, kicks on, up until the desired height of that  
 22 bale inside the machine.

23 And once it meets that designated height or  
 24 diameter, it senses -- it's a program; it's all auto --  
 25 it kicks and wraps the bale in that yellow wrap that I

<p style="text-align: right;">Page 57</p> <p>1 guess everybody has seen, or pink or blue, whatever</p> <p>2 color, but it wraps the bale. Then it automatically</p> <p>3 opens the RMB unit, the bale comes to the back, and the</p> <p>4 whole time you're still harvesting so the accumulator is</p> <p>5 still filling up.</p> <p>6 The baler -- the RMB comes back down, and</p> <p>7 you can hold that bale for as long as you want to on the</p> <p>8 back, like, if you want to dump it on the end of the</p> <p>9 turnrow which is at the end of the field. So you can</p> <p>10 hold it up until the other one is ready to come out --</p> <p>11 Q. Right.</p> <p>12 A. -- so you've got to get rid of it. You can</p> <p>13 hold it for a little bit of time, but all this is</p> <p>14 dependent on how good of cotton you're in because of how</p> <p>15 fast you can run. But -- so we did that. It did it</p> <p>16 twice. But on the -- when I turned on the end, I</p> <p>17 noticed there was smoke coming out of my baler, and</p> <p>18 that's when I was, like, "Am I seeing this? Is it</p> <p>19 dust?" You know, and being around cotton your whole</p> <p>20 life, like, you know the smell of cotton. It has a real</p> <p>21 distinct smell to it.</p> <p>22 Q. You mean cotton on fire or just cotton?</p> <p>23 A. No, cotton -- just cotton -- yes, cotton on</p> <p>24 fire. It has a real distinct, like, the smell to it,</p> <p>25 the smoke smell. So I turned the end on the field and I</p>	<p style="text-align: right;">Page 59</p> <p>1 Well, we squirt it down and we put it into</p> <p>2 transport mode and just looking for signs or what</p> <p>3 possibly could have caused this. And there was one</p> <p>4 little burnt spot on the big feeder belt. It's a big</p> <p>5 green belt that runs through there. And, of course, we</p> <p>6 were done for the day. I was, like, "Yeah, I'm not</p> <p>7 running this again," but that's when I called, you know,</p> <p>8 the guys from Hurst. And I was, like, "Look, I just had</p> <p>9 a fire," and they said, "We'll be out in the morning to</p> <p>10 come inspect it." So that's kind of where the first day</p> <p>11 was.</p> <p>12 Q. Okay. Now, I know as we go --</p> <p>13 A. Well, and also, by this time, well, 30 minutes</p> <p>14 or so, I looked back and the bale was just in flames.</p> <p>15 Q. So the bale you had ejected actually caught</p> <p>16 fire?</p> <p>17 A. Yes.</p> <p>18 Q. I know we're talking about fires and you're</p> <p>19 familiar with fires from your history with working --</p> <p>20 doing cotton farming. I assume you're not a cause and</p> <p>21 origin fire expert?</p> <p>22 A. Oh, no, sir.</p> <p>23 Q. Okay. But we're going to try to get your</p> <p>24 observations of what you saw --</p> <p>25 A. Yeah. Yeah.</p>
<p style="text-align: right;">Page 58</p> <p>1 looked back there and I see the smoke and I'm, like,</p> <p>2 "Oh, Lord."</p> <p>3 So I stop, I pick up and move to the</p> <p>4 field -- or the end of the -- out of the rows I was on,</p> <p>5 move to the pass that I'd just harvested, and I</p> <p>6 immediately looked -- you know, do the training, like I</p> <p>7 looked to see which way the wind is blowing. And a lot</p> <p>8 of that out there, I already knew which way the wind was</p> <p>9 blowing because we have wind turbines and they --</p> <p>10 they'll turn into the wind. Well, anyway, did the fire</p> <p>11 procedure, got the bale ejected, and at this time it was</p> <p>12 still -- it was still smoking, no flame.</p> <p>13 Q. And where was the smoke coming from?</p> <p>14 A. From the baler.</p> <p>15 Q. Okay.</p> <p>16 A. Yes, sir. Yeah. Right on the seam of the RMB</p> <p>17 unit on the right side, or -- yeah, that would be the</p> <p>18 passenger side, I guess, if you're sitting in the cab.</p> <p>19 And that's when, you know, I ejected it and went back.</p> <p>20 And then I put the bale on the ground and I drove up to</p> <p>21 our water trailer that was in the field, and our hand</p> <p>22 was sitting on the turnrow. And I just told him, I was,</p> <p>23 like, "Man, just" -- I was wanting him to ride with me</p> <p>24 because it did have a buddy seat in there, but I wanted</p> <p>25 to get com -- you know, familiar with the machine.</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. -- as much as you can -- as you can give us,</p> <p>2 okay?</p> <p>3 A. Okay.</p> <p>4 Q. So you've said what could have caused this.</p> <p>5 You didn't determine what the cause was for that first</p> <p>6 fire. You said you noticed a burned spot.</p> <p>7 A. No, but that -- yeah, because, you know, you'll</p> <p>8 notice, like, the -- yeah, just physical observation</p> <p>9 looking through it. And then -- yeah, and that's when</p> <p>10 we called the Deere mechanic to come out and, like,</p> <p>11 "Maybe there's something we're missing. Like, he can</p> <p>12 come and look through it."</p> <p>13 Q. Okay. You called Hurst, and they sent somebody</p> <p>14 out the next morning on the 24th?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay.</p> <p>17 A. Yep.</p> <p>18 Q. Do you remember who it was that came out?</p> <p>19 A. Yeah, it was Cade and the mechanic.</p> <p>20 Q. Okay. And did they look over the machine?</p> <p>21 A. He did. And he -- they looked over the belts,</p> <p>22 the bearings, the -- everything, and they could not find</p> <p>23 anything wrong with it. They did see the little burnt</p> <p>24 spot on the belt, on the feeder belt. But he's, like,</p> <p>25 "Man, it's not enough to replace it." He said, "You</p>

<p style="text-align: right;">Page 61</p> <p>1 dodged a bullet, basically," and that was his own words.</p> <p>2 And his boss -- Dad had, in the meanwhile</p> <p>3 that morning, went up to Hurst Farm -- because I will</p> <p>4 say, backing up to the first fire, and I failed to say</p> <p>5 this, but after it was up -- we squirted it down with</p> <p>6 water because we didn't know if it was still a hot spot</p> <p>7 in there, and I exhausted the fire extinguisher on board</p> <p>8 the machine.</p> <p>9 So Dad, that next morning, went to Hurst,</p> <p>10 got the fire extinguisher recharged, or traded it in,</p> <p>11 rather, and then bought some additional brushes and just</p> <p>12 stuff that we were just trying to -- things that we've</p> <p>13 known, like, our other stripper -- like, a fire brush,</p> <p>14 that it doesn't come standard on the machine, but it's</p> <p>15 where if it does start in the lint cleaner it will kick</p> <p>16 it and throw it out the burr pile out the side of the</p> <p>17 machine, which is when it separates the lint from the</p> <p>18 burr.</p> <p>19 Q. Okay.</p> <p>20 A. So we put that on and he cleared us to run. He</p> <p>21 was, like, "Y'all are -- y'all are good to go," like --</p> <p>22 Q. "He" being?</p> <p>23 A. Cade, the mechanic.</p> <p>24 Q. He looked it over, saw nothing mechanic --</p> <p>25 A. Yeah, and he was on the phone with his boss,</p>	<p style="text-align: right;">Page 63</p> <p>1 hot spots, and nothing showed up --</p> <p>2 A. Nothing --</p> <p>3 Q. -- as you were operating the header?</p> <p>4 A. Yes, sir. Yep.</p> <p>5 Q. Okay. And that indicated at least that --</p> <p>6 A. Like, there was nothing at the -- like the</p> <p>7 header could have -- that's just eliminating the</p> <p>8 possibility of a bearing getting above the normal</p> <p>9 operating temperature, which --</p> <p>10 Q. Okay. Again, there are various possible causes</p> <p>11 for a fire on one of these in the field. You've already</p> <p>12 talked about some of them.</p> <p>13 A. Oh, yes.</p> <p>14 Q. And one of the things that you-all tried to do</p> <p>15 is eliminate a bearing or something like that?</p> <p>16 A. Yes. And then the next thing was, Dad was</p> <p>17 like, "Where -- what part of the field" -- like, we were</p> <p>18 in a field -- now, I'll be perfectly honest. We have</p> <p>19 fields that have rocks in them; they're, like, you know,</p> <p>20 hard rocks, but this field is a great blackland farm.</p> <p>21 We looked, spun the header -- I mean, excuse me, the</p> <p>22 cleaner, which is saws -- it's got teeth all in it. You</p> <p>23 know, one of those could have come loose. We were</p> <p>24 looking, and there's -- it's in pristine condition.</p> <p>25 No -- and if a rock does get in there it will bend those</p>
<p style="text-align: right;">Page 62</p> <p>1 which was Brad, the guy that was out the day before.</p> <p>2 And Dad was talking to Brad about, you know, what had</p> <p>3 happened. Brad never come to the field, but he gave him</p> <p>4 an infrared gun, you know, one you can aim and get</p> <p>5 temperatures on.</p> <p>6 And what Brad suggested was, "When</p> <p>7 you -- before you start harvesting, like, kick it on,</p> <p>8 kick the header on and just shoot that thing on the</p> <p>9 bearings and just see if they're getting hot, you know,</p> <p>10 or if they're going out." And so we did that and -- you</p> <p>11 know, and Dad, I don't know, you know, they -- he's</p> <p>12 like, "Man" -- he's, like -- he kept saying, "Something</p> <p>13 doesn't -- doesn't sound right," but he said, "Cody, I'm</p> <p>14 not used to this machine. I don't know what this thing</p> <p>15 is supposed to sound like on the header." And so we</p> <p>16 really thought, you know, that would be my first thought</p> <p>17 just from my years of doing that is it would either have</p> <p>18 to be in the header or the cleaner. Because if that</p> <p>19 would have happened, the fire would have originated from</p> <p>20 the accumulator, which is essentially the basket on a</p> <p>21 basket stripper, but the baler is taking it one step</p> <p>22 further. But that's where --</p> <p>23 Q. So let me back up a little bit. So they -- the</p> <p>24 tech from the dealership came out; they turned it on;</p> <p>25 you looked -- you used a gun to see if there were any</p>	<p style="text-align: right;">Page 64</p> <p>1 things, you know, when it -- because it's spinning so</p> <p>2 fast. There was no signs of a rock going through that</p> <p>3 machine.</p> <p>4 Q. Okay. Did the tech look at that part of the</p> <p>5 machine?</p> <p>6 A. The cleaner?</p> <p>7 Q. Yeah.</p> <p>8 A. That was the first thing he looked at.</p> <p>9 Q. Did he see anything amiss?</p> <p>10 A. No. No, he didn't.</p> <p>11 MR. TAYLOR: Objection, form.</p> <p>12 MR. BLACKERBY: I'll fix it with a -- what</p> <p>13 was wrong?</p> <p>14 MR. TAYLOR: You asked him what he saw.</p> <p>15 MR. BLACKERBY: Okay.</p> <p>16 Q. (BY MR. BLACKERBY) When you talked to the tech</p> <p>17 from Hurst Farm Supply, did he mention seeing anything</p> <p>18 about -- anything wrong with the cleaner?</p> <p>19 A. No, I mean, he spun it. I mean, it's got belts</p> <p>20 and I helped him. I mean, we spun that thing and looked</p> <p>21 at not only the initial saw, the bottom saw, like, no --</p> <p>22 no visible signs.</p> <p>23 Q. Okay. These saws, you talked about these</p> <p>24 sawtooth blades that are on there?</p> <p>25 A. Yes, they're --</p>

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

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NATIONWIDE AGRIBUSINESS \$  
INSURANCE COMPANY, as \$  
4 subrogee of CWH FARMS, \$  
\$

5

Plaintiffs \$ CIVIL ACTION NO:  
\$ 4:19-CV-00425-0

6

VS. \$

7

DEERE & COMPANY, \$  
\$

8

Defendant \$

9

10

ORAL DEPOSITION OF  
JEFF RATHEAL  
11 Volume 1 of 1  
July 28, 2020  
12 (Reported Remotely)

13

14

ORAL DEPOSITION OF JEFF RATHEAL, produced as  
15 a witness at the instance of the PLAINTIFFS, and duly  
16 sworn, was taken in the above-styled and numbered cause  
17 on July 28, 2020 from 10:08 a.m. to 11:42 a.m. before  
18 Katrina L. Gentry, CSR No. 2630 in and for the State of  
19 Texas, reported by Stenographic method. The witness is  
20 located at 507 E. Coliseum Dr., Snyder, Texas 79549,  
21 pursuant to the Federal Rules of Civil Procedure, Notice  
22 and the First Emergency Order Regarding the COVID-19  
23 State of Disaster, and the provisions stated on the  
24 record or attached hereto.  
25

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A P P E A R A N C E S

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3

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P R O C E E D I N G S

2

COURT REPORTER: We are on the record.

3

Today's date is July 28th, 2020. The time is 10:08 a.m.

4

This is the deposition of JEFF RATHEAL, and it is being

5

conducted remotely in accordance with the Seventeenth

6

Emergency Order regarding the COVID-19 State of

7

Disaster, Sections 3(c) and (d). The witness is located

8

at 507 E. Coliseum Drive, Snyder, Texas 79549.

9

My name is Katrina Gentry. My certification

10

number is 2630. I am administering the oath and

11

reporting the deposition remotely by stenographic means

12

from my home office in Corpus Christi. I am

13

representing Hill & Romero, 7000 N. 10th Street, Suite

14

C-2B, McAllen, Texas 78504.

15

The witness has been identified to me

16

through attestation of counsel.

17

Is that correct, Counsel?

18

MR. ZINNECKER: Yes, that's correct.

19

COURT REPORTER: Okay, thank you.

20

Would counsel please state their

21

appearances and locations for the record.

22

MR. TAYLOR: David Taylor on behalf of the

23

Plaintiffs broadcasting from Minneapolis, Minnesota.

24

MR. ZINNECKER: Ben Zinnecker for Deere &

25

Company in Snyder, Texas in the same room as the



<p style="text-align: right;">Page 9</p> <p>1 Q. (By Mr. Taylor) So the reason I even say that</p> <p>2 is because Hurst Farm Supply and your involvement in</p> <p>3 here in this case is not readily apparent, so if I need</p> <p>4 to try to explain some reasons -- I don't want to -- I</p> <p>5 don't want to fumble over my words in terms of trying to</p> <p>6 make sure we've got the record straight here.</p> <p>7 So the subject cotton stripper in this case</p> <p>8 you understand was purchased from Hurst Farm Supply,</p> <p>9 correct?</p> <p>10 A. That is correct.</p> <p>11 Q. And the cotton stripper that we're talking</p> <p>12 about that is the subject of this case that started on</p> <p>13 fire was purchased by CWH Farms.</p> <p>14 A. Yes, sir.</p> <p>15 Q. Had you or do you have prior business dealings</p> <p>16 with CWH Farms prior to the purchase of the subject</p> <p>17 cotton stripper?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Was it primarily with Cody Hughes or with</p> <p>20 Cody Hughes' dad?</p> <p>21 A. Both.</p> <p>22 Q. How long, as far as you know, has Hurst Farm</p> <p>23 Supply been doing business with CWH Farms?</p> <p>24 A. Ten or 15 years.</p> <p>25 Q. A very typical customer coming in buying either</p>	<p style="text-align: right;">Page 11</p> <p>1 selling new equipment, new John Deere equipment?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Stuff like this like a cotton stripper, large</p> <p>4 combine is generally ordered and then it's delivered to</p> <p>5 you guys, you set it up and then deliver it to the</p> <p>6 customer?</p> <p>7 A. Yes, sir.</p> <p>8 Q. When -- at what point do you present or do you</p> <p>9 provide the purchase paperwork, that type of stuff, to</p> <p>10 the customer, in this case CWH Farms?</p> <p>11 A. We sign our purchase order before the machine</p> <p>12 is ordered, and then we do the paperwork when the</p> <p>13 machine gets here.</p> <p>14 Q. Okay. At the time the machine gets here when</p> <p>15 it gets delivered is it at that time that you present</p> <p>16 the customer with the warranty, the John Deere warranty?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you know what the terms of the typical</p> <p>19 John Deere agricultural equipment warranty are, given</p> <p>20 your experience as a John Deere dealer?</p> <p>21 A. Yes, sir.</p> <p>22 Q. What is your understanding of what John Deere</p> <p>23 covers in regards to its agricultural equipment</p> <p>24 warranty?</p> <p>25 MR. ZINNECKER: Form.</p>
<p style="text-align: right;">Page 10</p> <p>1 equipment, trading in equipment, that type of stuff?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And then does Hurst Farm Supply do a lot of the</p> <p>4 maintenance work or the work on the CWH Farms</p> <p>5 implements?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Were you involved in the actual sale of the</p> <p>8 CWH cotton stripper?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Just to be sure I'm clear, when I say "CWH</p> <p>11 cotton stripper" we're talking about the cotton stripper</p> <p>12 that's subject of this lawsuit.</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. Tell me about your involvement in the</p> <p>15 sale of that cotton stripper.</p> <p>16 A. I sold the cotton stripper to CWH Farms.</p> <p>17 Q. Okay. Do you recall when that was?</p> <p>18 A. 2017.</p> <p>19 Q. Tell me about the process of selling the</p> <p>20 stripper to CWH Farms in 2017.</p> <p>21 A. I just -- we talked about buying one, he talked</p> <p>22 about buying one, and I sold him one, we ordered it from</p> <p>23 John Deere Finance -- John Deere, and got it in, and</p> <p>24 then we set it up and we delivered it.</p> <p>25 Q. Is that a fairly typical process you follow for</p>	<p style="text-align: right;">Page 12</p> <p>1 A. The defects, or something like that.</p> <p>2 Q. (By Mr. Taylor) In your course of working at</p> <p>3 Hurst Farm Supply have you ever had to replace any new</p> <p>4 John Deere agricultural equipment pursuant to a</p> <p>5 warranty?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you in your time with Hurst Farm Supply</p> <p>8 ever had to repair a John Deere piece of agricultural</p> <p>9 equipment that's under warranty?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Tell me how you go about that process, how you</p> <p>12 learn about the problem, how you go about repairing it,</p> <p>13 and how you communicate with Deere.</p> <p>14 A. Customer calls in with some kind of problem</p> <p>15 with their piece of equipment, and then we either -- the</p> <p>16 machine comes to our store for repair, or we do a</p> <p>17 service call in the country and our technicians diagnose</p> <p>18 the problem. According to what that problem is they</p> <p>19 follow what that process is to fix it and do the</p> <p>20 repairs.</p> <p>21 They may require us to -- that may require</p> <p>22 us to be in contact with John Deere to help us figure</p> <p>23 out what's wrong, and then do those repairs.</p> <p>24 Q. Who pays for those repairs typically?</p> <p>25 A. If it's a warranty item situation John Deere</p>

<p style="text-align: right;">Page 33</p> <p>1 A. That is correct.</p> <p>2 Q. Okay. So they open those up and they look</p> <p>3 inside.</p> <p>4 A. Yes.</p> <p>5 Q. And then do they put them back on and run the</p> <p>6 machine, or do they run the machine with the covers</p> <p>7 off?</p> <p>8 A. They put them back on and ran the machine.</p> <p>9 Q. Okay. As far as you know is that the extent</p> <p>10 of the inspection that Mr. Owens did of the sawtooth</p> <p>11 drums?</p> <p>12 A. Yes.</p> <p>13 Q. And we had confirmed earlier that he didn't</p> <p>14 take pieces of equipment off of the subject stripper in</p> <p>15 the course of at least the 24th -- or the 23rd</p> <p>16 inspection, correct?</p> <p>17 A. I was not there, so I'm not sure what all that</p> <p>18 inspection was.</p> <p>19 Q. He didn't tell you, "Yeah, I removed the</p> <p>20 header, I looked inside here, I removed this, I removed</p> <p>21 that." That was not part of the discussion nor part of</p> <p>22 your testimony?</p> <p>23 A. No, sir.</p> <p>24 Q. Correct?</p> <p>25 A. That is correct.</p>	<p style="text-align: right;">Page 35</p> <p>1 Supply notified John Deere corporate of these two fires?</p> <p>2 A. I believe we did, yes.</p> <p>3 Q. What was John Deere's response to the</p> <p>4 October 23rd, 2017 fire?</p> <p>5 A. I don't remember that.</p> <p>6 Q. Do you recall any response?</p> <p>7 A. I don't.</p> <p>8 Q. John Deere didn't send out a technician or tell</p> <p>9 you to contact D-Tag to figure out what might have</p> <p>10 happened?</p> <p>11 A. Not that I'm aware of, no, sir.</p> <p>12 Q. The D-Tag system is a system that's utilized by</p> <p>13 entities like Hurst Farm to troubleshoot certain</p> <p>14 problems, correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. So without any reaction from John Deere on the</p> <p>17 October 23rd fire, you have another fire on</p> <p>18 October 24th, 2017; what is John Deere's reaction to</p> <p>19 that fire?</p> <p>20 MR. ZINNECKER: Form.</p> <p>21 A. I'm not aware of the reaction.</p> <p>22 Q. (By Mr. Taylor) Is it fair to say they didn't</p> <p>23 do anything?</p> <p>24 A. I don't know that, sir.</p> <p>25 Q. Well, fair to say you are not aware of them</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. So Mr. Hughes (sic) comes back on the 24th of</p> <p>2 October after the second fire, he does a similar</p> <p>3 inspection as you understand it as to what he did on the</p> <p>4 23rd?</p> <p>5 A. Similar, yes, sir.</p> <p>6 Q. And his results are the same, he doesn't know</p> <p>7 what happened.</p> <p>8 A. That is correct.</p> <p>9 Q. He's consistent in not identifying any evidence</p> <p>10 that he believes is indicative of foreign debris coming</p> <p>11 into the machine, correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Then at some point you come out to the field on</p> <p>14 October 24th?</p> <p>15 A. That is correct.</p> <p>16 Q. Were there anybody -- was there anybody else</p> <p>17 there from Hurst Farm besides you and Cade?</p> <p>18 A. I believe one other technician was there,</p> <p>19 Brad Davis.</p> <p>20 Q. What did you and Brad and Cade do when you're</p> <p>21 in the field?</p> <p>22 A. We just tried to help them get stuff cleaned</p> <p>23 up. We were trying to make it where we could get it on</p> <p>24 a truck to repair it.</p> <p>25 Q. By the 24th of October, 2017 had Hurst Farm</p>	<p style="text-align: right;">Page 36</p> <p>1 doing anything.</p> <p>2 A. That is correct.</p> <p>3 Q. You, as the local John Deere dealership that</p> <p>4 sold the machine that was in communication with</p> <p>5 John Deere corporate, are not aware of John Deere doing</p> <p>6 anything in response to the October 23rd, 2017 fire nor</p> <p>7 the October 24, 2017 fire, correct?</p> <p>8 MR. ZINNECKER: Form.</p> <p>9 A. To my knowledge, no.</p> <p>10 Q. (By Mr. Taylor) So you were in the field on</p> <p>11 October 24th, 2017 trying to help your customer,</p> <p>12 Cody Hughes, and try to figure out the best of a bad</p> <p>13 situation, right?</p> <p>14 A. That is correct.</p> <p>15 Q. What did you do in terms of trying to make the</p> <p>16 best of that bad situation? You put it in transport</p> <p>17 mode, you were thinking about trying to get it out of</p> <p>18 the field to go for repair?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Did you separate the header from the machine?</p> <p>21 A. No, sir.</p> <p>22 Q. Was the header separated from the machine when</p> <p>23 you got there?</p> <p>24 A. No, sir.</p> <p>25 Q. Who separated the header? Who took the header</p>

<p style="text-align: right;">Page 37</p> <p>1 off the machine?</p> <p>2 A. I don't remember that.</p> <p>3 Q. Okay. You do understand at some point it was</p> <p>4 taken off the stripper though, right?</p> <p>5 A. Yes, sir, yes. I don't know who did that.</p> <p>6 Q. Yes, sir.</p> <p>7 Did you look at the header on October 24th,</p> <p>8 2017?</p> <p>9 A. I did not inspect it. I did look at it, yes,</p> <p>10 but I did not inspect it.</p> <p>11 Q. Okay. Did you see -- well -- well, ultimately</p> <p>12 the header is purchased by Hurst Farm, right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Do you know how long after the October 24th</p> <p>15 fire that it was purchased?</p> <p>16 A. I don't have that right in front of me, but I</p> <p>17 can find out.</p> <p>18 Q. A couple months, though, like early in December</p> <p>19 I think it likely was?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. Prior to making that purchase did Hurst</p> <p>22 Farm Supply inspect the header?</p> <p>23 A. Yes, sir.</p> <p>24 Q. I mean, you didn't go buy it sight unseen,</p> <p>25 right?</p>	<p style="text-align: right;">Page 39</p> <p>1 December of 2017, you did not believe that that header</p> <p>2 was the cause of the two CWH fires, correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. In and around the time of the fire, whether</p> <p>5 it's October all the way through December 2017 or even</p> <p>6 early part of '18, did Hurst Farm Supply ever do</p> <p>7 anything to determine what the cost of repair was for</p> <p>8 the machine or would be for the machine?</p> <p>9 A. Yes.</p> <p>10 Q. Describe for me the process that was followed</p> <p>11 at that time.</p> <p>12 A. We had a technician look at the machine to see</p> <p>13 what it would take to repair it.</p> <p>14 Q. And put together like an invoice, that kind of</p> <p>15 thing?</p> <p>16 A. Put together a quote.</p> <p>17 Q. Do you recall as you sit here today, sir, what</p> <p>18 that rough number was, cost of repair to the CWH</p> <p>19 machine?</p> <p>20 A. In the neighborhood of 300,000.</p> <p>21 Q. What -- do you recall generally what the</p> <p>22 machine had been purchased for?</p> <p>23 A. I'm sorry, I don't understand your question.</p> <p>24 Q. The machine -- well, the CWH machine was,</p> <p>25 according to the inspection, was in a condition where it</p>
<p style="text-align: right;">Page 38</p> <p>1 A. Yes.</p> <p>2 Q. Did Hurst Farm Supply believe that there was</p> <p>3 anything wrong or defective with the header when it</p> <p>4 purchased it?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you believe that there were any bearings</p> <p>7 that were failing?</p> <p>8 A. No, sir.</p> <p>9 Q. Did you see -- prior to the purchase of the</p> <p>10 CWH header, did you see any evidence of that header</p> <p>11 having rebar ingested into it?</p> <p>12 A. No, sir.</p> <p>13 Q. Any evidence of rocks being passed through it?</p> <p>14 A. No, sir.</p> <p>15 Q. Ultimately Hurst Farm Supply sold that header</p> <p>16 to another customer, correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And did so without ever having to make any</p> <p>19 repairs to it.</p> <p>20 A. That is correct.</p> <p>21 Q. You, as -- at the time of the purchasing the</p> <p>22 header in December of 2017 did not believe there was a</p> <p>23 problem with it as a result of the fire, correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Also at the time of purchasing the header in</p>	<p style="text-align: right;">Page 40</p> <p>1 needed about \$300,000 worth of repair on or about</p> <p>2 October 24th, 2017, right?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you know what that machine was purchased</p> <p>5 for, what CWH paid for that machine prior to that</p> <p>6 roughly?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And what is that rough number?</p> <p>9 A. \$650,000.</p> <p>10 Q. So somewhere 40 to -- 40 to 50 percent of the</p> <p>11 cost of the machine was going to need to be reinvested</p> <p>12 into the stripper to execute the repairs based on you</p> <p>13 guys' review post fire?</p> <p>14 A. Yes, sir.</p> <p>15 Q. If Hurst Farm Supply were to perform that, say,</p> <p>16 \$300,000 or so of repairs, would Mr. Hughes have a</p> <p>17 warranted machine --</p> <p>18 A. Yes, sir.</p> <p>19 Q. -- with John Deere?</p> <p>20 A. Sorry, ask that again.</p> <p>21 Q. Would that be a warranted machine pursuant to</p> <p>22 the terms of John Deere as you understand it?</p> <p>23 A. Yes, sir.</p> <p>24 Q. So all of the repairs that you proposed making,</p> <p>25 this 300, whether it's 325, maybe 350, whatever that</p>

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF TEXAS 3 FORT WORTH DIVISION 4 NATIONWIDE AGRIBUSINESS § INSURANCE COMPANY, as § 5 subrogee of CWH FARMS, § § 6 Plaintiffs § CIVIL ACTION NO: § 4:19-CV-00425-0 7 VS. § § 8 DEERE &amp; COMPANY, § § 9 Defendant § 10 11 ORAL DEPOSITION OF 12 CADE OWEN Volume 1 of 1 July 28, 2020 (Reported Remotely) 13 14 ORAL DEPOSITION OF CADE OWEN, produced as a 15 witness at the instance of the PLAINTIFFS, and duly 16 sworn, was taken in the above-styled and numbered cause 17 on July 28, 2020 from 11:56 a.m. to 1:23 p.m. before 18 Katrina L. Gentry, CSR No. 2630 in and for the State of 19 Texas, reported by Stenographic method. The witness is 20 located at 507 E. Coliseum Dr., Snyder, Texas 79549, 21 pursuant to the Federal Rules of Civil Procedure, Notice 22 and the First Emergency Order Regarding the COVID-19 23 State of Disaster, and the provisions stated on the 24 record or attached hereto. 25</p>	<p>1 INDEX TO PROCEEDINGS 2 PAGE 3 Appearances..... 2 4 CADE OWEN 5 Examination by Mr. Taylor..... 4 6 Examination by Mr. Zinnecker.....27 7 Further Examination by Mr. Taylor.....41 8 Further Examination by Mr. Zinnecker...65 9 Further Examination by Mr. Taylor.....68 10 Corrections/Signature Pages.....74 11 Reporter's Certificate.....76 12 ***** 13 EXHIBIT INDEX 14 EXHIBIT NO. DESCRIPTION PAGE 15 *****NO EXHIBITS MARKED***** 16 17 18 19 20 21 22 23 24 25</p>
Page 2	Page 4
<p>1 A P P E A R A N C E S 2 3 COUNSEL FOR THE PLAINTIFF: 4 DAVID J. TAYLOR - via Zoom Yost &amp; Baill, LLP 5 2020 U.S. Bank Plaza South 220 South Sixth Street 6 Minneapolis, Minnesota 55402 Phone: 612.338.6000 7 Email: Dtaylor@yostbaill.com 8 COUNSEL FOR HURST FARM SUPPLY: 9 WILLIAM H. BOYLES - via Zoom Craig, Terrill, Hale &amp; Grantham 10 State Bar No. 02798000 8422 Garland Road 11 Dallas, Texas 75218 Email: Willlb@cthlawfirm.com 12 13 COUNSEL FOR THE DEFENDANT, DEERE &amp; CO: 14 BENJAMIN T. ZINNECKER - via Zoom State Bar No. 24066504 15 Email: Bzinnecker@germer-austin.com AND 16 CHRIS A. BLACKERBY - via Zoom State Bar No. 00787091 17 Email: Chlackerby@germer-austin.com Germer Beaman &amp; Brown, PLLC 18 301 Congress Avenue, Suite 1700 Austin, Texas 78701 19 Phone: 512.472.0288 20 21 22 23 24 25</p>	<p>1 P R O C E E D I N G S 2 COURT REPORTER: We are on the record. 3 Today's date is July 28th, 2020. The time is 11:56 a.m. 4 This is the deposition of CADE OWEN, and it is being 5 conducted remotely in accordance with the Seventeenth 6 Emergency Order regarding the COVID-19 State of 7 Disaster, Sections 3(c) and (d). The witness is located 8 at 507 E. Coliseum Drive, Snyder, Texas 79549. 9 My name is Katrina Gentry. My certification 10 number is 2630. I am administering the oath and 11 reporting the deposition remotely by stenographic means 12 from my home office in Corpus Christi. I am 13 representing Hill &amp; Romero, 7000 N. 10th Street, Suite 14 C-2B, McAllen, Texas 78504. 15 The witness has been identified to me 16 through attestation of counsel. 17 Is that correct, Counsel? 18 MR. ZINNECKER: Yes, that's correct. 19 COURT REPORTER: Okay, thank you. 20 Would counsel please state their 21 appearances and locations for the record. 22 MR. TAYLOR: David Taylor on behalf of the 23 Plaintiffs in Minneapolis, Minnesota. 24 MR. ZINNECKER: Ben Zinnecker for 25 Deere &amp; Company in Snyder, Texas.</p>



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1 MR. BOYLES: Will Boyles for Hurst Farm  
 2 Supply in Snyder, Texas.  
 3 COURT REPORTER: Thank you.  
 4 Would you please raise your right hand,  
 5 Mr. Owen, and take this oath.  
 6 CADE OWEN,  
 7 having been first duly sworn, testified as follows:  
 8 EXAMINATION  
 9 BY MR. TAYLOR:  
 10 Q. Good afternoon, Mr. Owen. We met just prior to  
 11 the start of this deposition. My name is Dave Taylor,  
 12 and I represent the Plaintiffs in this case. Have you  
 13 ever been deposed before?  
 14 A. Excuse me?  
 15 Q. Have you ever been deposed before?  
 16 A. No, sir.  
 17 Q. Okay. Were you in the room when we went over  
 18 the general rules of thumb for Mr. Ratheal?  
 19 A. No, sir.  
 20 Q. Okay. Well, just in a nutshell, sir, the  
 21 format here when people are being deposed it's really  
 22 the attempt or the intention is for us to have a  
 23 conversation where I ask you questions, you give me some  
 24 answers, and it happens in a normal course; however,  
 25 everything is being taken down here, as we just heard by

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1 the court reporter, and that is a difficult job to do  
 2 when one person is talking, and almost impossible to do  
 3 when two people are talking. And in the normal course  
 4 of conversations people talk over each other all the  
 5 time.  
 6 So I'm going to need to improve my ability  
 7 to not interrupt you when you're giving me an answer,  
 8 I'm going to ask you to not give me the answer until I'm  
 9 done asking the question. Does that sound fair?  
 10 A. I understand.  
 11 Q. Okay. And the other thing I tell people  
 12 generally is because everything is being taken down we  
 13 need to make sure that your answers are in actual words  
 14 as opposed to shakes of the head, nods of the head.  
 15 This is not being videoed, so words work best, fair?  
 16 A. Yes, sir.  
 17 Q. The last thing I tell people, and this is a  
 18 quirk of mine probably, in that I will routinely confuse  
 19 things between my head and my mouth, and it will come  
 20 out confusing. What I'm mostly interested about or  
 21 interested in is making sure I'm understanding the  
 22 information you're giving me.  
 23 So if I ask you something that you don't  
 24 understand, it's not an attempt to trick you or anything  
 25 like that, it's just I don't know what I'm saying. Just

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1 tell me to say it again or do something different and  
 2 we'll figure it out, okay?  
 3 A. Yes, sir.  
 4 Q. So, Mr. Owens (sic), we did hear a little bit  
 5 about you and your possible involvement in the -- in  
 6 this case in the earlier deposition, so I don't want to  
 7 go over a ton of old ground, but can you tell me were  
 8 you involved at all in the sale of the what we call "the  
 9 Hughes stripper"?  
 10 A. No, sir.  
 11 Q. Nothing that you could add in terms of personal  
 12 knowledge as to how it was bought, what was talked  
 13 about, anything like that?  
 14 A. No, sir.  
 15 Q. Okay. Do you know Cody Hughes?  
 16 A. I do, yes, sir.  
 17 Q. Did you know him before they bought this  
 18 stripper?  
 19 A. No, sir.  
 20 Q. Okay. Fair to say you know Cody by way of your  
 21 employment at Hurst?  
 22 A. That's true, yes, sir.  
 23 Q. How long have you been working at Hurst?  
 24 A. Four years.  
 25 Q. Four years.

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1 And tell me generically what you do there.  
 2 A. I'm a field technician. I work on all  
 3 John Deere equipment out in the field.  
 4 Q. Customers call in, they've got a problem,  
 5 because a lot of this equipment is hard to move they  
 6 send people out as opposed to always requiring people to  
 7 bring in their car, that kind of thing, right?  
 8 A. Yes, sir.  
 9 Q. So do you go around in a truck from spot to  
 10 spot, or do you usually report in at Hurst and they give  
 11 you a list of places you've got to go that day? How  
 12 does that work?  
 13 A. Yes, sir, come in in the morning, get my  
 14 service calls, go about my day.  
 15 Q. Okay. On October 23rd of 2017 you were out  
 16 doing your service calls, right?  
 17 A. Yes, sir.  
 18 Q. And at some point during that day you learned  
 19 that there was a fire on the Hurst stripper, correct?  
 20 A. Yes, sir.  
 21 Q. Did you have any contact with Cody Hughes or  
 22 CWH Farms or the Hughes stripper prior to that  
 23 October 23rd, 2017 call?  
 24 A. Yes, sir.  
 25 Q. I couldn't remember if you were the guy that

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1 went and did the training and kind of fine tuning of the  
 2 machine once it was delivered or not, but tell me about  
 3 your involvement prior to October 23rd of 2017.  
 4 A. Performed a walk-through training evaluation  
 5 with the customer and installed a rear back-up camera.  
 6 Q. Okay. Anything else?  
 7 A. No, sir.  
 8 Q. Did that training happen in the field where the  
 9 fire happened on October 23rd?  
 10 A. No, sir.  
 11 Q. Where did that training happen?  
 12 A. At the customer's barn.  
 13 Q. Okay. Was the training specific to a CS690, or  
 14 was it general field operations, that kind of stuff?  
 15 A. CS690 only.  
 16 Q. Okay. Do you recall when that was done?  
 17 A. No, sir.  
 18 Q. So you had that interaction in terms of the  
 19 walk around and the initial training of the CS690, and  
 20 then what is the next interaction you had with anybody  
 21 from CWH Farms or involvement with the Hughes stripper?  
 22 A. A few days later on the first initial fire.  
 23 Q. Okay. So that would have been on October 23rd,  
 24 2017, that's when you were out doing your normal duties  
 25 and you get the call about a fire at the Hughes -- or on

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1 the Hughes stripper. Describe for me what you do.  
 2 A. Excuse me, can you repeat that, please?  
 3 Q. Sure. Describe for me what you do. You get  
 4 that call, what is the next step? What do you do?  
 5 A. Get to the customer's equipment in the field  
 6 and go over with the customer exactly what happened, and  
 7 inspect the machine.  
 8 Q. Okay. And the customer that you met in the  
 9 field was Cody Hughes?  
 10 A. That is correct, yes, sir.  
 11 Q. And he described he had had a fire on his new  
 12 CS690.  
 13 A. Yes, sir.  
 14 Q. Did he tell you that there were only 2.7 hours  
 15 of fan use on it?  
 16 A. Yes, sir.  
 17 Q. Did that strike you as -- I mean, was that a  
 18 significant thing to you, or did that not mean anything  
 19 to you?  
 20 A. No, sir, it didn't mean anything.  
 21 Q. Okay. Except you knew this was virtually brand  
 22 new.  
 23 A. Yes, sir.  
 24 Q. So tell me what you guys talked about.  
 25 A. Customer contacted me, he had smelled smoke, I

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1 did not visualize any fire. Performed a walk-through  
 2 and run-out test on this machine from front to back,  
 3 header, cleaner, accumulator, R and B, and the injection  
 4 system, you know, when it ejects the bail out, a full  
 5 run of the machine with the customer; did not find any  
 6 damage.  
 7 Q. Okay. Did Mr. Hughes describe to you that he  
 8 saw flames?  
 9 A. No, sir.  
 10 Q. Okay. He said that he smelled smoke and saw  
 11 some smoke, right?  
 12 A. Correct.  
 13 Q. When you looked at the header of this machine  
 14 on October 23rd, 2017 did you see any evidence of rocks  
 15 being ingested in it?  
 16 A. Not to my knowledge, no, sir.  
 17 Q. Okay. When you looked at the header on  
 18 October 2017 -- October 23rd of 2017 did you see any  
 19 evidence that led you to believe that rebar had been  
 20 ingested into the machine?  
 21 A. Can you repeat that one more time?  
 22 Q. Sure. On October 23rd of 2017 when you were  
 23 doing the inspection of the machine did you see anything  
 24 on the header that led you to believe that a piece of  
 25 rebar had been sucked through that machine?

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1 A. No, sir.  
 2 Q. Okay. On October 23rd of 2017 when you were  
 3 doing an inspection on the header of the Hughes stripper  
 4 did you see any evidence on the header that indicated to  
 5 you that any foreign debris had been through that  
 6 machine?  
 7 A. Not to my knowledge, no, sir.  
 8 Q. Did you separate the header from the machine?  
 9 A. No, sir.  
 10 Q. Did you look at the feeder house of the  
 11 machine?  
 12 A. Yes, sir.  
 13 Q. Did you see anything there or any evidence to  
 14 indicate that there had been a piece of rebar sucked  
 15 through that portion of the machine?  
 16 A. Nothing out of the ordinary, no, sir.  
 17 Q. Did you see any chipped John Deere green paint  
 18 in the area of the machine?  
 19 A. No, sir.  
 20 Q. Did you inspect the rock shoot that is  
 21 immediately prior to the cleaning portion of the  
 22 machine?  
 23 A. The best I could, yes, sir.  
 24 Q. And when you looked at that portion of the  
 25 machine did you see any chipped John Deere paint on that

<p style="text-align: right;">Page 13</p> <p>1 rock shoot?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you see any physical evidence on that rock</p> <p>4 shoot that a piece of foreign debris or rebar has been</p> <p>5 deposited and may have been sucked through the machine?</p> <p>6 A. It is possible, but I didn't see any, no, sir.</p> <p>7 Q. I didn't ask if something was possible, I'm</p> <p>8 asking about evidence.</p> <p>9 And I wanted to find out if you saw</p> <p>10 anything on that rock shoot that led you to believe that</p> <p>11 a piece of rebar had been sucked through that machine.</p> <p>12 A. No, sir.</p> <p>13 MR. ZINNECKER: Form.</p> <p>14 A. No, sir.</p> <p>15 Q. (By Mr. Taylor) Then you looked at the cleaning</p> <p>16 section of the machine, the cleaner, correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And then the sawtooth drums?</p> <p>19 A. Yes, sir.</p> <p>20 Q. You opened up the shields?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And you didn't see any evidence of rocks or</p> <p>23 rebar or anything like that being sucked through that</p> <p>24 area of the machine either.</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page 15</p> <p>1 indicated a piece of steel like a piece of rebar had</p> <p>2 gotten into the machine in some unknown fashion, right?</p> <p>3 A. No, sir.</p> <p>4 Q. The same could be said in regards to evidence</p> <p>5 of a rock being pushed through that machine, you didn't</p> <p>6 identify a single piece of evidence through your</p> <p>7 head-to-toe inspection, front-to-back inspection of that</p> <p>8 entire machine in your October 23rd, 2017 inspection,</p> <p>9 correct?</p> <p>10 A. No, sir.</p> <p>11 Q. Correct, you did not find -- that's a bad way</p> <p>12 of asking that.</p> <p>13 A. Yes.</p> <p>14 Q. So you get done with your inspection of the</p> <p>15 machine, did you also use a heat gun?</p> <p>16 A. No, sir.</p> <p>17 Q. Did you provide a heat gun to take temperatures</p> <p>18 of bearings to CWH Farms?</p> <p>19 A. No, sir.</p> <p>20 Q. Okay. Are you aware of whether or not</p> <p>21 Hurst Farm did?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you check the bearings on the header in any</p> <p>24 fashion in your October 23rd, 2017 inspection?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. You didn't remove any belts.</p> <p>2 A. No, sir.</p> <p>3 Q. And then you moved on. You went through the</p> <p>4 accumulator.</p> <p>5 A. That's correct, yes, sir.</p> <p>6 Q. And then you didn't see any signs in the</p> <p>7 accumulator of any rocks or any rebar as has been</p> <p>8 deposited was sucked into the machine, correct?</p> <p>9 A. No, sir.</p> <p>10 Q. Then you went to the R.B.U., the round bailing</p> <p>11 unit in the back of the machine, correct?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And that's where most of the fire damage was</p> <p>14 for the second fire, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And during your October 24th, 2017 inspection</p> <p>17 of this machine after that fire after 2.7 hours worth of</p> <p>18 use you didn't see any evidence of rocks or rebar being</p> <p>19 ingested through the machine as indicated on the R.B.U.</p> <p>20 either, right?</p> <p>21 MR. ZINNECKER: Form.</p> <p>22 A. No, sir.</p> <p>23 Q. (By Mr. Taylor) In fact, when you were there to</p> <p>24 investigate the October 23rd fire on the machine you</p> <p>25 didn't identify a single piece of evidence that</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Did you see bearings that were out?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you see any bearings that had failed?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. When you get done with your inspection</p> <p>6 on the 23rd of October, 2017 what's the next thing you</p> <p>7 do?</p> <p>8 A. Can you repeat that, please?</p> <p>9 Q. When you're done on October 23rd, after you've</p> <p>10 done your head-to-toe inspection, you haven't found any</p> <p>11 evidence of rocks or rebar or anything like that, when</p> <p>12 you don't know what caused the fire what is the next</p> <p>13 thing you do?</p> <p>14 A. Call my supervisor and move to the next job.</p> <p>15 Q. Fair enough.</p> <p>16 The day goes by on the 23rd. The 24th</p> <p>17 starts and you're back in the truck, right?</p> <p>18 A. Correct.</p> <p>19 Q. And at some point on October 24th, 2017 you get</p> <p>20 another call indicating that there was another fire on</p> <p>21 the Hughes stripper.</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And so you go back over to Cody's field,</p> <p>24 same field that you were there the day before, right?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 21</p> <p>1 correct?</p> <p>2 MR. ZINNECKER: Form.</p> <p>3 A. Correct.</p> <p>4 Q. (By Mr. Taylor) Once you sized-up the scene on</p> <p>5 October 24th, you've looked around, you noticed that the</p> <p>6 back left tire is blown out, what's the next thing you</p> <p>7 do?</p> <p>8 A. Call the supervisor to see how I proceed with</p> <p>9 the job, the inspection.</p> <p>10 Q. Okay. What did your supervisor tell you?</p> <p>11 A. Really for me there is nothing I could do,</p> <p>12 so...</p> <p>13 Q. Did you look at the machine or inspect the</p> <p>14 machine in any way on October 24th?</p> <p>15 MR. BOYLES: Dave, you cut out again.</p> <p>16 Q. (By Mr. Taylor) Okay, sorry. On October 24th</p> <p>17 did you perform a similar inspection on the machine that</p> <p>18 you did on October 23rd?</p> <p>19 A. Due to the damage on the machine and the oil on</p> <p>20 the platforms, no, sir.</p> <p>21 Q. Okay. Did you look at the header on October</p> <p>22 24th when you were in the field?</p> <p>23 A. Yes, sir.</p> <p>24 Q. You did.</p> <p>25 Did you notice anything on the header that</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. Did you understand or do you know now</p> <p>2 that that -- that the header that was on the Hughes</p> <p>3 stripper at the time of the 24 October fire, that that</p> <p>4 header was sold to Hurst Farm?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. Did you -- or at any point after</p> <p>7 Hurst Farm purchased that header did you hear about any</p> <p>8 problems or repairs that needed to be made on the</p> <p>9 header?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. When you were looking at the header on</p> <p>12 October 24th, 2017 did you believe there was anything</p> <p>13 defective about the header?</p> <p>14 A. No, sir.</p> <p>15 Q. You looked at the bearings again that day?</p> <p>16 A. Yes, sir.</p> <p>17 Q. You determined that the bearings were not -- or</p> <p>18 that you did not see any bearings that had failed?</p> <p>19 A. No, sir.</p> <p>20 Q. You did not see any bearings that looked like</p> <p>21 they were in the process of failing getting hot?</p> <p>22 A. No, sir.</p> <p>23 Q. In short, you couldn't see anything on the</p> <p>24 header on October 24th, 2017 when you were looking at</p> <p>25 it, which was for the second time, you couldn't see</p>
<p style="text-align: right;">Page 22</p> <p>1 indicated to you that rocks had been ingested in through</p> <p>2 the rows in the header?</p> <p>3 A. Other than normal wear on the machine, no, sir.</p> <p>4 Q. Did you see anything on the header that led you</p> <p>5 to believe that a piece of rebar had been ingested or a</p> <p>6 piece of scrap metal had been ingested through it?</p> <p>7 A. No, sir.</p> <p>8 Q. At some point the header is separated from the</p> <p>9 machine, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know who did that? Was that Cody or was</p> <p>12 that somebody else? Do you have any idea?</p> <p>13 A. Usually it's the customer.</p> <p>14 Q. Were you there when it was done?</p> <p>15 A. No, sir.</p> <p>16 Q. At some point once the header was removed from</p> <p>17 the machine it was actually placed just immediately in</p> <p>18 front of the machine in the field, right?</p> <p>19 A. Correct.</p> <p>20 Q. Is that where Hurst Farm looked at it when they</p> <p>21 were looking at it as the potential item to purchase?</p> <p>22 A. I do not know.</p> <p>23 Q. Okay. Were you involved in the purchase of the</p> <p>24 header from the Hughes stripper?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page 24</p> <p>1 anything on that header that led you to believe that it</p> <p>2 had anything to do with the fire, right?</p> <p>3 MR. ZINNECKER: Form.</p> <p>4 A. I honestly don't know, it was two years ago.</p> <p>5 Q. (By Mr. Taylor) But you don't know -- as you</p> <p>6 sit here right now you don't know, but what we do know</p> <p>7 is you didn't identify anything on the header at that</p> <p>8 time as being something that might have caused the fire,</p> <p>9 correct?</p> <p>10 MR. ZINNECKER: Form.</p> <p>11 A. Correct.</p> <p>12 Q. (By Mr. Taylor) You didn't go to Mr. Ratheal</p> <p>13 and say, "Hey, I have a bearing out here on the third</p> <p>14 row, that's most likely our culprit," right?</p> <p>15 A. Right.</p> <p>16 Q. It never happened because you never identified</p> <p>17 any piece of evidence like that.</p> <p>18 MR. ZINNECKER: Form.</p> <p>19 Q. (By Mr. Taylor) Correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. And ultimately Hurst buys the header,</p> <p>22 and as far as you know they didn't have to do anything</p> <p>23 to it to eventually sell it to another customer,</p> <p>24 correct?</p> <p>25 A. To the best of my knowledge.</p>

<p style="text-align: right;">Page 25</p> <p>1 Q. And to the best of your knowledge you don't</p> <p>2 think that there is anything wrong with that header that</p> <p>3 was on the machine on the 23rd of October of 2017 or on</p> <p>4 the machine on October 24th of 2017, anything wrong with</p> <p>5 that header that led to this fire, right?</p> <p>6 MR. ZINNECKER: Form.</p> <p>7 A. Not to the best of my knowledge, no, sir.</p> <p>8 Q. (By Mr. Taylor) Right. And you've looked at it</p> <p>9 twice.</p> <p>10 A. Correct.</p> <p>11 Q. And you've got experience looking at some of</p> <p>12 these machines specifically for bearings that go out,</p> <p>13 right?</p> <p>14 A. That's correct.</p> <p>15 Q. And one of the things that a technician does</p> <p>16 for John Deere when he's driving around in the truck is</p> <p>17 he goes out and he repairs bearings.</p> <p>18 A. Yes, sir.</p> <p>19 Q. And so if there was a bearing that had gone out</p> <p>20 or was on its way to going out on the header, that would</p> <p>21 have been something that would have been right in your</p> <p>22 alley to be able to identify, right?</p> <p>23 A. That's correct.</p> <p>24 Q. And you didn't identify it on October 23rd nor</p> <p>25 on October 24th.</p>	<p style="text-align: right;">Page 27</p> <p>1 area of expertise, and you didn't see any sign of</p> <p>2 failure.</p> <p>3 A. That's correct.</p> <p>4 Q. And no sign of rebar ingestion.</p> <p>5 A. No, sir.</p> <p>6 Q. No sign of rock ingestion.</p> <p>7 A. No, sir.</p> <p>8 Q. And no sign of foreign debris ingestion in</p> <p>9 either of your examinations of the header.</p> <p>10 A. No, sir.</p> <p>11 Q. Thank you, Mr. Owen, that's all I've got.</p> <p>12 MR. ZINNECKER: Give us a minute to switch</p> <p>13 speakers and microphones.</p> <p>14 Okay, can everybody hear me okay?</p> <p>15 MR. TAYLOR: Yes.</p> <p>16 EXAMINATION</p> <p>17 BY MR. ZINNECKER:</p> <p>18 Q. Mr. Owen, my name is Ben Zennicker, and I</p> <p>19 represent Deere in this case; do you understand that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Now, you are not a cause of origin expert I</p> <p>22 think as you talked about a little earlier; is that</p> <p>23 correct?</p> <p>24 A. That's right.</p> <p>25 Q. But you're able to testify about what you saw,</p>
<p style="text-align: right;">Page 26</p> <p>1 A. No, sir.</p> <p>2 Q. Now, I know that your profession is to fix farm</p> <p>3 implements; do you have any training in regards to the</p> <p>4 investigation of the cause and/or origin of fires?</p> <p>5 A. No, sir.</p> <p>6 Q. Okay. I'll tell you what you might have done</p> <p>7 in terms of, "Hey, we occasionally see spot fires on</p> <p>8 farm machinery, and I go and I fix them," right?</p> <p>9 A. Correct.</p> <p>10 Q. You're not former fire department, never been</p> <p>11 trained as a fire investigator.</p> <p>12 A. No, sir.</p> <p>13 Q. What you are able to say with some -- and I</p> <p>14 would say with a reasonably good degree of expertise,</p> <p>15 is, "I am able to go identify components on a piece of</p> <p>16 farm machinery that might have failed or in the state of</p> <p>17 failure."</p> <p>18 A. Sure.</p> <p>19 Q. And that's what your inspection does, that's</p> <p>20 what they do is go out and look at these machines, try</p> <p>21 to identify the problems, and then fix those problems.</p> <p>22 A. Correct.</p> <p>23 Q. And you looked at the Hughes stripper two</p> <p>24 different times, you went over that cotton header two</p> <p>25 different times checking the bearings, all within your</p>	<p style="text-align: right;">Page 28</p> <p>1 and based on your experience as a mechanic on</p> <p>2 October 23rd and October 24th, 2017?</p> <p>3 A. That is correct.</p> <p>4 Q. And you have how many years of experience</p> <p>5 repairing ag equipment and working on work orders for</p> <p>6 repairs?</p> <p>7 A. Four years.</p> <p>8 Q. Okay. Are you familiar with the idea that</p> <p>9 fires are things that do happen on harvesting equipment?</p> <p>10 A. That is correct.</p> <p>11 Q. And a lot of times the crops that are harvested</p> <p>12 are volatile; is that true?</p> <p>13 A. That's true.</p> <p>14 Q. Are there a number of possible causes of a fire</p> <p>15 involving harvesting equipment?</p> <p>16 A. There is.</p> <p>17 Q. Does the fact that a fire happens mean there</p> <p>18 was something wrong with the equipment?</p> <p>19 A. No, sir.</p> <p>20 Q. Does the fact that a fire happened after a</p> <p>21 couple of hours of operation mean there is something</p> <p>22 wrong with the equipment?</p> <p>23 MR. TAYLOR: Objection, form, foundation.</p> <p>24 A. No, sir.</p> <p>25 Q. (By Mr. Zinnecker) Do you know whether a fire</p>



<p style="text-align: right;">Page 29</p> <p>1 can start in the header without it having a defect?</p> <p>2 MR. TAYLOR: Objection, form.</p> <p>3 A. Can you repeat that, please?</p> <p>4 Q. (By Mr. Zinnecker) Sure. Have you ever seen</p> <p>5 fires start in a header before?</p> <p>6 MR. TAYLOR: Objection.</p> <p>7 A. Yes.</p> <p>8 Q. (By Mr. Zinnecker) Have you ever seen fires</p> <p>9 start in the header without there being a problem with</p> <p>10 the bearings, for example?</p> <p>11 A. That is correct.</p> <p>12 Q. Can a fire start in the header without pointing</p> <p>13 to a specific component and saying, "That's what caused</p> <p>14 it?"</p> <p>15 A. That is correct.</p> <p>16 MR. TAYLOR: Objection, form, foundation.</p> <p>17 Q. (By Mr. Zinnecker) And have you actually been</p> <p>18 personally involved in cases where the fire appeared to</p> <p>19 start in the header but you didn't see anything wrong</p> <p>20 with the header from a component perspective?</p> <p>21 MR. TAYLOR: Objection, form, foundation.</p> <p>22 A. That is correct.</p> <p>23 Q. (By Mr. Zinnecker) Okay. Now, I want to talk</p> <p>24 to you about the October 23rd, 2017 fire, okay?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. Okay. Do you remember -- do you know what</p> <p>2 hydraulic fluid looks like?</p> <p>3 A. Yes.</p> <p>4 Q. Is hydraulic fluid in place in the header, is</p> <p>5 that part of the way the header works?</p> <p>6 MR. TAYLOR: Objection, form.</p> <p>7 MR. ZINNECKER: What's the basis?</p> <p>8 MR. TAYLOR: It's unintelligible to say</p> <p>9 that hydraulic fluid is in place in the header.</p> <p>10 Q. (By Mr. Zinnecker) Okay, does hydraulic fluid</p> <p>11 play a part in the operation of the header?</p> <p>12 A. Yes.</p> <p>13 Q. What is that?</p> <p>14 A. It controls all your hydraulic lift, your</p> <p>15 hydraulics for your motor that turns your header, your</p> <p>16 row units.</p> <p>17 Q. Did you see any evidence of hydraulic fluid in</p> <p>18 the header area during your inspection for the first</p> <p>19 fire?</p> <p>20 A. No, sir.</p> <p>21 Q. And you took the covers off the header rows,</p> <p>22 did I hear you say that right?</p> <p>23 A. Yes.</p> <p>24 Q. You didn't see any evidence of fire or anything</p> <p>25 else?</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Have you seen fire damage before on a piece of</p> <p>2 John Deere equipment?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you know -- and you're not a cause of origin</p> <p>5 expert, but have you seen where a fire has happened on a</p> <p>6 piece of ag equipment before?</p> <p>7 A. That is correct, yes, sir.</p> <p>8 Q. During that first fire did you see any evidence</p> <p>9 of a fire happening in the header area?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. And describe the process generally of</p> <p>12 what you did to look at the header on October 23rd,</p> <p>13 2017; what did you do?</p> <p>14 A. First thing pulled the box off the top of the</p> <p>15 unit, remove the covers, look at the bearings and any</p> <p>16 component that could cause friction of any sort,</p> <p>17 metal-to-metal contact, and the actual run of the header</p> <p>18 with the machine at 4 RPMs.</p> <p>19 Q. So you took the covers off the header rows; is</p> <p>20 that right?</p> <p>21 A. That's right.</p> <p>22 Q. Did you see any evidence of thermal damage in</p> <p>23 the area where the headers are installed on the machine</p> <p>24 or anything like that?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. No.</p> <p>2 Q. Now, Mr. Hughes earlier in this case said that</p> <p>3 the cleaner and the sawtooth blades were in pristine</p> <p>4 condition; would you agree with that?</p> <p>5 MR. TAYLOR: Objection, form.</p> <p>6 A. Yes.</p> <p>7 Q. (By Mr. Zinnecker) Let me ask it this way, how</p> <p>8 would you describe the condition of the cleaner after</p> <p>9 the first fire?</p> <p>10 A. No thermal damage whatsoever, all screws in</p> <p>11 place on sawtooth blades, bearings intact.</p> <p>12 Q. All right. Describe in detail, please, your</p> <p>13 inspection of the saw drum and the saw drum blades when</p> <p>14 you went out for the October 23rd, 2017 fire.</p> <p>15 A. First thing is remove all covers off the</p> <p>16 cleaner, machine is off, you turn the cleaner by hand</p> <p>17 using a pry bar, and also inspection of the doffler's</p> <p>18 rear cleaner.</p> <p>19 Q. Okay. And did you turn the drum as well?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. Did you -- are you confident that you</p> <p>22 inspected every single saw drum blade and every single</p> <p>23 bearing on that October 23rd, 2017 inspection?</p> <p>24 A. To the best of my knowledge, yes, sir.</p> <p>25 Q. Okay. And what did you see?</p>

TRACE LANDERS

August 20, 2020

NATIONWIDE AGRIBUSINESS vs DEERE &amp; CO.

1-4

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE NORTHERN DISTRICT OF TEXAS</p> <p>3 FORT WORTH DIVISION</p> <p>4</p> <p>5 NATIONWIDE AGRIBUSINESS )</p> <p>6 INSURANCE COMPANY, as )</p> <p>7 subrogee of CWH FARMS, )</p> <p>8 Plaintiff, ) Civil Action No.: 4:19-CV-00425-O</p> <p>9 vs. )</p> <p>10 DEERE &amp; COMPANY, )</p> <p>11 Defendant. )</p> <p>12</p> <p>13 The deposition of TRACE LANDERS, called</p> <p>14 for examination, taken pursuant to the Federal</p> <p>15 Rules of Civil Procedure of the United States</p> <p>16 District Courts pertaining to the taking of</p> <p>17 depositions, taken before KRISTIN C. BRAJKOVICH, a</p> <p>18 Certified Shorthand Reporter, CSR. No. 84-3810, of</p> <p>19 said state, via Zoom, on the 20th day of August,</p> <p>20 A.D. 2020, at 9:11 a.m.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 3</p> <p>1 (WHEREUPON, the witness was duly</p> <p>2 sworn.)</p> <p>3 TRACE LANDERS,</p> <p>4 called as a witness herein, having been first duly</p> <p>5 sworn, was examined and testified as follows:</p> <p>6 EXAMINATION</p> <p>7 BY MR. TAYLOR:</p> <p>8 Q. Good morning, Mr. Landers. As you know,</p> <p>9 my name --</p> <p>10 A. Good morning.</p> <p>11 Q. As you know, my name is Dave Taylor. I</p> <p>12 represent the plaintiffs in this case. I am going</p> <p>13 to ask you some preliminary questions. I'm not</p> <p>14 sure if I know the answers to these, but hopefully</p> <p>15 we'll move through them very quickly.</p> <p>16 Have you ever been deposed before?</p> <p>17 A. I have been deposed one other time by</p> <p>18 you.</p> <p>19 Q. Okay. Was it just the single time as</p> <p>20 the 30(b)(6) representative speaking on behalf of</p> <p>21 John Deere in this case? Was that your only prior</p> <p>22 deposition?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So it probably goes without being</p>
<p style="text-align: right;">Page 2</p> <p>1 PRESENT:</p> <p>2 YOST &amp; BAILL, LLP,</p> <p>3 (2050 U.S. Bank Plaza South,</p> <p>4 220 South Sixth Street</p> <p>5 Minneapolis, Minnesota 55402,</p> <p>6 1-612-338-6000), by:</p> <p>7 MR. DAVID J. TAYLOR,</p> <p>8 dtaylor@yostbaill.com,</p> <p>9 appeared viz Zoom on behalf of</p> <p>10 Plaintiff;</p> <p>11</p> <p>12 GERMER BEAMAN &amp; BROWN PLLC,</p> <p>13 (301 Congress Avenue, Suite 1700,</p> <p>14 Austin, Texas 78701,</p> <p>15 1-512-472-0288), by:</p> <p>16 MR. CHRIS A. BLACKERBY,</p> <p>17 cblackerb@germer-austin.com,</p> <p>18 appeared via Zoom on behalf of</p> <p>19 Defendant.</p> <p>20</p> <p>21 ALSO PRESENT: MR. JACOB EVERHART, Deere &amp; Company.</p> <p>22</p> <p>23 REPORTED BY: KRISTIN C. BRAJKOVICH,</p> <p>24 CSR No. 84-3810.</p>	<p style="text-align: right;">Page 4</p> <p>1 said, but fair to say that you have not been</p> <p>2 deposed as a fire investigator at any point in your</p> <p>3 professional history?</p> <p>4 A. I have not.</p> <p>5 Q. Have you ever issued, beyond what was</p> <p>6 issued in this case, any fire investigation</p> <p>7 reports, expert reports pursuant to federal rules</p> <p>8 of evidence, generally Federal Rule 26? Have you</p> <p>9 ever done that before outside of what was done in</p> <p>10 this case?</p> <p>11 A. I have not. Are you getting feedback</p> <p>12 Dave?</p> <p>13 Q. No. I can hear you.</p> <p>14 A. So I have not. I have only done the</p> <p>15 report for this case and the supplementary report</p> <p>16 provided as well.</p> <p>17 Q. Have you ever issued a fire engineering</p> <p>18 or expert report in any litigation, whether it's</p> <p>19 federal or state?</p> <p>20 A. No.</p> <p>21 Q. So the two reports that you have written</p> <p>22 and disclosed in the course of formal litigation</p> <p>23 are the two reports that exist here?</p> <p>24 A. Correct. Correct.</p>



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1 just trying to get -- hopefully to get you to agree  
 2 that those bolts are supposed to have heads on  
 3 them. If they have the heads broken off of them,  
 4 it's a mechanical failure of some sort?  
 5 A. Correct.  
 6 MR. BLACKERBY: Objection, form to the term  
 7 "mechanical."  
 8 BY MR. TAYLOR:  
 9 Q. The question of how the heads were  
 10 broken off is up for debate, but the fact that the  
 11 heads are broken off is a mechanical failure  
 12 internal to the machine, right?  
 13 A. Right.  
 14 Q. Okay. So the machine that we have got  
 15 that is the subject of this case had had four hours  
 16 of fan use on it, and we can agree that when  
 17 everybody looked at it, it had five broken bolt  
 18 heads on it, correct?  
 19 A. Correct.  
 20 MR. BLACKERBY: Objection, form.  
 21 BY MR. TAYLOR:  
 22 Q. And those broken bolt heads, those five  
 23 individual mechanical failures, are in the cleaner  
 24 section of the machine, correct?

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1 A. Correct.  
 2 Q. There are only -- it's a finite way in  
 3 which those bolt heads can be broken, would you  
 4 agree with that?  
 5 A. Correct.  
 6 Q. They can either be overtorqued or  
 7 overtightened? That is one way?  
 8 A. Correct.  
 9 MR. BLACKERBY: Objection, form.  
 10 BY MR. TAYLOR:  
 11 Q. They could be sheared off in some  
 12 fashion, either this way or that way, but the head  
 13 gets snapped off in a lateral way, a shearing  
 14 force?  
 15 A. Are you talking in a general context, or  
 16 are you saying that the bolts of this drum could be  
 17 sheared off by overtorquing it.  
 18 Q. I'm saying that bolts in general --  
 19 A. Okay.  
 20 Q. -- can be broken -- or you can break the  
 21 bolt head off of a bolt in three different ways, is  
 22 what I would say. I will ask you if you agree with  
 23 me on that.  
 24 MR. BLACKERBY: Objection.

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1 BY MR. TAYLOR:  
 2 Q. You can either twist it off by over  
 3 tightening it, correct?  
 4 MR. BLACKERBY: Objection, form.  
 5 BY MR. TAYLOR:  
 6 Q. Correct, sir?  
 7 A. Correct.  
 8 Q. Okay. You can shear it off?  
 9 A. Yeah.  
 10 Q. That is number two, correct?  
 11 A. Correct.  
 12 Q. You can pull the top off, overcome the  
 13 clamping force of the bolt?  
 14 A. That is three. There's more.  
 15 Q. What are the additional ways in which  
 16 you could break a bolt head off?  
 17 A. A bolt stretching -- I'm getting  
 18 feedback again.  
 19 MR. BLACKERBY: Sorry.  
 20 BY THE WITNESS:  
 21 A. So too much bolt tension, so bolt  
 22 stretch.  
 23 BY MR. TAYLOR:  
 24 Q. From the bottom?

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1 A. Yeah, like you are pulling it apart.  
 2 Q. Okay. Sort of like the clamping, but  
 3 this sort of thing, right?  
 4 A. Yeah, and then bending. Bending. You  
 5 have two pieces that are bound together bending a  
 6 load on the bolt.  
 7 Q. Are there any bending loads on the bolts  
 8 that are the subject that we are talking about?  
 9 A. No.  
 10 Q. All right. So you could pull a bolt  
 11 from the bottom and get the head to pop off,  
 12 similar to grabbing it from the top and pulling it  
 13 from the top, right?  
 14 A. Yep.  
 15 Q. So maybe that is a fourth way. It  
 16 depends on how you look at it.  
 17 A. Correct.  
 18 Q. Any other ways that you can think of?  
 19 A. Those are the main ones.  
 20 Q. Okay.  
 21 A. Ones that I can think of.  
 22 Q. Now, in regards to the self-tapping  
 23 screws here, I know that you have done some testing  
 24 or what you purport to be testing. I'm not really

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

NATIONWIDE AGRIBUSINESS	§	
INSURANCE COMPANY, as subrogee of	§	
CWH FARMS,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO.: 4:19-CV-00425-O
	§	
vs.	§	
	§	
DEERE & COMPANY,	§	
	§	
Defendant.	§	

**AFFIDAVIT OF CODY W. HUGHES**

STATE OF TEXAS )  
COUNTY OF NOLAN ) ss.

I, Cody W. Hughes, being first duly sworn, state and allege as follows:

1. I am a Fifth generation cotton farmer from the Sweetwater, Texas area.
2. I am a 50/50 partner with my father, Willis W. Hughes, in CWH Farms LLC.
3. My father and I were both involved with Hurst Farm Supply in the purchase of the John Deere CS690 Cotton Stripper ("Subject Stripper") that burned on October 24, 2017 that is the subject of this lawsuit.
4. Our general practice at CWH Farms is to make sure our equipment is within the manufacturer's warranty as repairs and delays can be expensive. We accomplish this by attempting to trade in machines as their manufacturer's warranties expire.
5. At the time of the purchasing of the Subject Stripper, I was aware that the John Deere CS690 was a new machine warranted against defects in workmanship and material. I also

understood that if a problem arose from a defect in the machine that John Deere would have covered the necessary repairs.

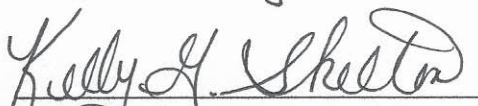
6. The fact that the Subject Stripper came with a warranty against defects in workmanship and material was part of the reason my father and I purchased the Subject Stripper.

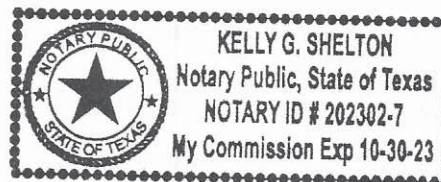
7. In an effort to make sure we were always running equipment that was covered by the John Deere warranty, we discussed with Hurst Farm Supply the future trade-in value of the Subject Stripper at the time of its purchase, including executing a purchase order for a 2018 John Deere CS690 to replace the Subject Stripper upon trade.

FURTHER YOUR AFFIANT SAITH NOT.

  
Cody W. Hughes

Subscribed and sworn to before me  
this 26<sup>th</sup> day of August, 2020.

  
Notary Public



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

NATIONWIDE AGRIBUSINESS §  
INSURANCE COMPANY, as subrogee of §  
CWH FARMS, §  
§  
Plaintiff, § CIVIL ACTION NO.: 4:19-CV-00425-O  
§  
vs. §  
§  
DEERE & COMPANY, §  
§  
Defendant. §

AFFIDAVIT OF WILLIS W. HUGHES

STATE OF TEXAS )  
COUNTY OF NOLAN ) ss.  
)

I, Willis W. Hughes, being first duly sworn, state and allege as follows:

1. I am a Fourth generation cotton farmer from the Sweetwater, Texas area.

2. I am a 50/50 partner with my son, Cody W. Hughes, in CWH Farms LLC.

3. My son and I were both involved with Hurst Farm Supply in the purchase of the John Deere CS690 Cotton Stripper ("Subject Stripper") that burned on October 24, 2017 that is the subject of this lawsuit.

4. Our general practice at CWH Farms is to make sure our equipment is within the manufacturer's warranty as repairs and delays can be expensive. We accomplish this by attempting to trade in machines as their manufacturer's warranties expire.

5. At the time of the purchasing of the Subject Stripper, I was aware that the John Deere CS690 was a new machine warranted against defects in workmanship and material. I also



understood that if a problem arose from a defect in the machine that John Deere would have covered the necessary repairs.

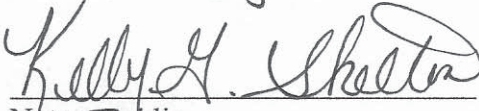
6. The fact that the Subject Stripper came with a warranty against defects in workmanship and material was part of the reason my son and I purchased the Subject Stripper.

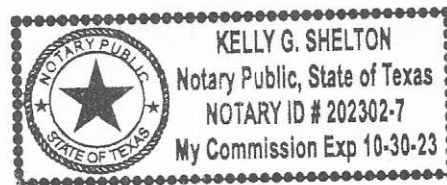
7. In an effort to make sure we were always running equipment that was covered by the John Deere warranty, we discussed with Hurst Farm Supply the future trade-in value of the Subject Stripper at the time of its purchase, including executing a purchase order for a 2018 John Deere CS690 to replace the Subject Stripper upon trade.

FURTHER YOUR AFFIANT SAITH NOT.

  
Willis W. Hughes

Subscribed and sworn to before me  
this 26<sup>th</sup> day of August, 2020.

  
Notary Public





Hamers Engineering LLC  
753 Y Ave  
Ames, IA 50014  
Phone: 515-357-0749

MECHANICAL ENGINEERING REPORT #1

Mr. David Taylor  
Yost & Baill, LLP  
2050 US Bank Plaza South  
220 South Sixth Street  
Minneapolis, MN 55402  
Via email: [dtaylor@yostbaill.com](mailto:dtaylor@yostbaill.com)

Date: March 6, 2020  
Insured: CWH Farms  
Loss Location: rural Roscoe, TX  
Date of Loss: October 24, 2017  
Nationwide 188377-GG  
Claim #:  
Hamers File #: 17H101

Dear Mr. Taylor:

This will be my initial report regarding the above referenced investigative assignment.

ENCLOSURES

1. 54 – John Deere CS690 Exam photographs-SRH-2017-12-13
2. 51 – John Deere CS690 Exam photographs-SRH-2020-02-18
3. 17H101 – CWH Farms Sign-In Sheet-2017-12-13
4. Artifact list – none collected

ADDITIONAL MATERIALS REVIEWED

1. Defendant's Initial Disclosures 2019/10/04
2. Defendant's Responses and Objections to Plaintiff's RFA, Set I 2020/01/16
3. John Deere CS690 Marketing Brochure
4. John Deere CS690 Operator's Manual – OMKK33834
5. John Deere CS690 Parts Catalog – PC12381
6. John Deere CS690 Technical Manuals – TM124819 & TM124919
7. John Deere-CWH Farms Photographs (Bates Stamps 2043-2136)

BACKGROUND

According to information provided to this investigator, this loss involved a fire on a 2017 model John Deere CS690 cotton stripper. The owners reportedly purchased the new cotton stripper from Hurst Farm Supply, Inc. in Snyder, TX. Hurst reported that the cotton stripper went through the dealer setup protocol at their Lorenzo, TX location and it was then delivered to CWH Farms.



CWH000071



Mr. David Taylor

March 6, 2020

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CWH Farms is owned by Mr. Cody Hughes. Mr. Hughes reported that the subject cotton stripper had approximately nine engine hours and four fan hours at the time of the fire. Mr. Hughes indicated that the October 24, 2017 fire was the second fire on the subject cotton stripper. The first fire occurred on October 23, 2017 when the cotton stripper had approximately 2 ½ fan hours. Mr. Hughes was able to extinguish the first fire and then called Hurst Farm Supply to examine the cotton stripper.

Hurst Farm Supply reportedly examined the cotton stripper and did not locate any potential ignition sources or problems with the cotton stripper after the first fire. Hurst Farm Supply reportedly told the insured that the cotton stripper was field ready and that he could commence harvesting with the unit.

On October 24, 2017, CWH Farms was operating the subject cotton stripper and a fire was discovered in the accumulator. The fire was reportedly transferred to the baler where it caught the baler belts on fire. The insureds had a 1000 gallon water tank in the field at the time the fire was discovered but they were unable to extinguish the fire before significant damage occurred.

The purpose of this investigation was to examine the subject cotton stripper and to determine the cause of this fire loss.

### INVESTIGATION

On December 13, 2017, I traveled to the loss location near Roscoe, Texas to examine the subject cotton stripper. During the examination, a series of photographs were taken. These photographs were captioned and a photo slate was prepared. A copy of the photo slate is included with this report and a CD of the full resolution photographs is available upon request. An attendance sheet of the representatives present during the examination is also included with this report.

The subject cotton stripper was still located in the field where the fire occurred. The cotton stripper had been moved from the fire location to the edge of the field prior to the examination. The cotton stripper had been moved approximately 40 yards to the northwest after the fire. The cotton stripper was identified as a John Deere CS690 with a serial number of 1N0C690SKH4065098.

At the time of the fire, the cotton stripper was equipped with an eight row John Deere cotton stripper head. The head had been removed from the cotton stripper prior to my examination. According to information provided by Hurst Farm Supply, the head had been removed from the subject cotton stripper and placed into service on another unit. Hurst Farm Supply reported that there were no operational problems with the cotton stripper head when it was placed into service on another unit.

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Photographs #1 through #7, on the enclosed photo slate, show the extent of fire damage on the subject cotton stripper. There was extensive fire damage in the round module builder (RMB) on the unit. The RMB is also referred to as the baler.

The engine compartment, the exhaust aftertreatment and hydraulic pump compartment and the cab experienced very little fire damage. The cotton fan and air ducts were intact and unaffected by the fire.

The cotton cleaner was also examined. The bearings for the paddle auger, saw tooth drums, doffer, cleaner fan and trash auger were examined and appeared to be in serviceable condition. There was no rock or foreign objection ingestion damaged noted on the saw tooth drums or on any components in the cleaner. All of the saw blade points were sharp and properly orientated. During the examination, I noted that there were four saw tooth blade screws that had the head snapped off on the upper saw tooth drum and there was one screw head snapped off on the lower drum. There was no evidence of any foreign objects striking the screw heads and causing them to break.

The doffer was also examined. The doffer is a rotating cylinder equipped with twelve nylon brushes which removes the cotton from the upper and lower saw tooth drums and discharges the cotton into the air stream leading to the accumulator.

After examining the cleaner, I examined the accumulator. There was burnt cotton observed in the accumulator and the metal panel which separated the baler from the accumulator was heat damaged. I checked the bearings for the meter rollers and the beater rollers and they were in serviceable condition. There were no indications of a mechanical failure in the accumulator.

After examining the accumulator, I examined the round module builder (baler). The baler includes a rubber feed belt which runs from the accumulator to the baler. The feed belt was consumed in the fire. Additionally, rubber belts draped between the baler rollers form the bale chamber. All of the rubber baler belts were damaged and consumed in the fire. The baler belts are routed through a series of rollers which rotate as the belts travel. The baler rollers are supported on each end with bearings. I checked for failed bearings in the baler and did not observe any bearings that had potentially failed.

A second examination of the baler was held on February 18, 2020. During this examination, the cleaner including the saw tooth drums and doffer were thoroughly examined. On the saw tooth drums, we marked the location of each of the broken screw heads. All of the broken screw heads were installed in the end holes on the saw tooth blades. One particular row of screws included three of the five broken screw heads.

During the examination of the doffer, I noted that there were impact marks on the doffer which lined up with the saw tooth blades which were attached with the screws that had snapped off screw heads. Photographs #88 through #99, on the enclosed photo slate, document the condition of the doffer and show the impact marks on the doffer from the

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loose saw tooth blades. Photograph #93, reproduced below, shows one location where the saw tooth blade had struck the doffer.



Photograph 93 – Doffer struck with loose saw tooth blade

### ANALYSIS

Figure #1, below, is an excerpt from the John Deere Operator's Manual for the CS690 Cotton Stripper showing the cotton cleaner. The cotton cleaner on the subject cotton stripper was designed to remove the larger foreign material from the stripped cotton. The stripped cotton is conveyed up the main duct and distributed across the cleaner by the paddle auger noted on Figure #1 as "C". The cotton leaves the paddle auger and is distributed across the upper saw drum ("E"). Channel shaped saw blades attached to the saw tooth drum grab the cotton and pull it under the grid bars ("F") located around the outside of the saw tooth drum. The larger foreign material and some cotton drops below the upper saw tooth drum and is processed a second time by the lower saw tooth drum ("G"). The cotton is hooked onto the saw tooth drums by the hooked teeth on the saw tooth blades. The saw tooth drums rotate past the grid bars toward the rear of the cleaner where the cotton is removed from the upper and lower saw tooth drums by the doffer ("M"). The doffer is a rotating cylinder brush that dislodges the cotton from the teeth of the saw tooth blades and discharges the cotton into the air stream from the cleaner fan ("L") which carries the cotton to the accumulator.

# Understanding Cleaner Operation

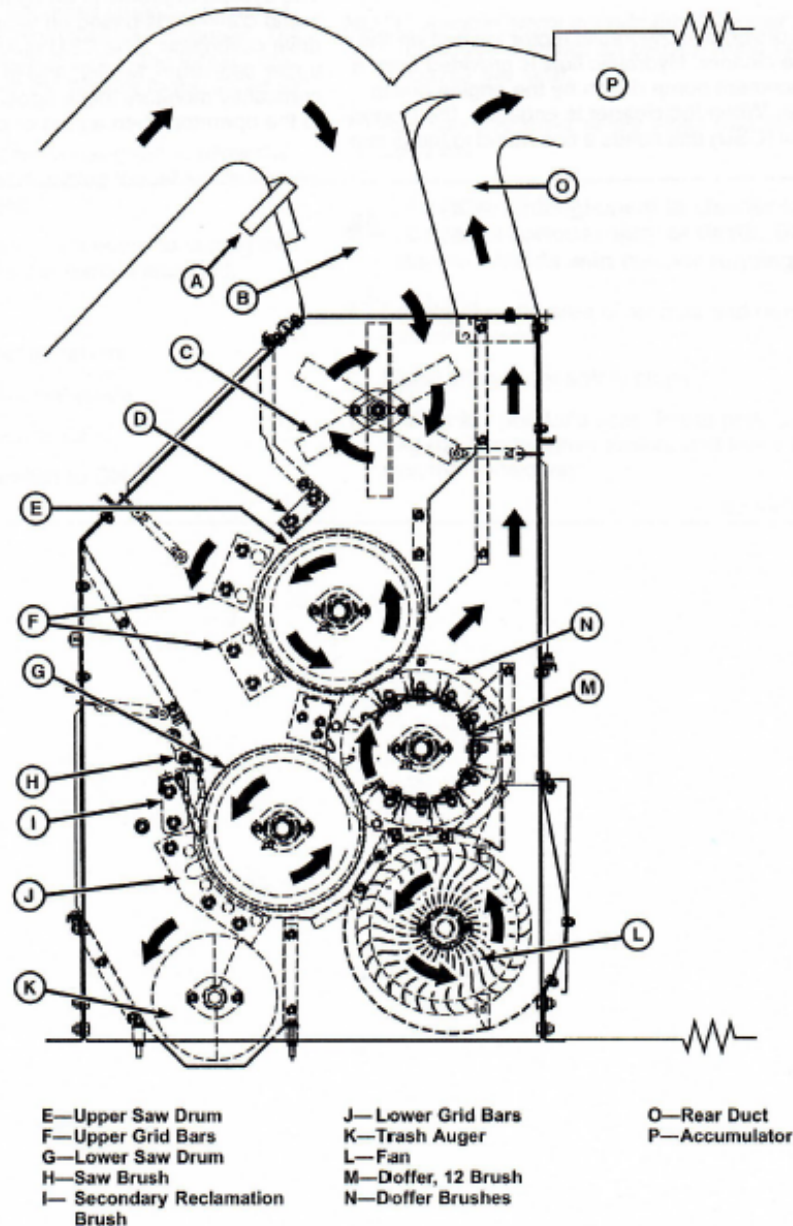


Figure 1 – Cotton cleaner John Deere Operator's Manual for the CS690 Cotton Stripper

The channel shaped saw tooth blades are attached to the saw tooth drum with five screws per blade. It takes two semicircular saw tooth blades to go around the circumference of the saw tooth drum. Figure #2, below, shows the saw tooth drum and saw tooth blades attached to the drum with screws. There are two double rows of screws which attached the ends of the semicircular shaped blades to the saw tooth drum.



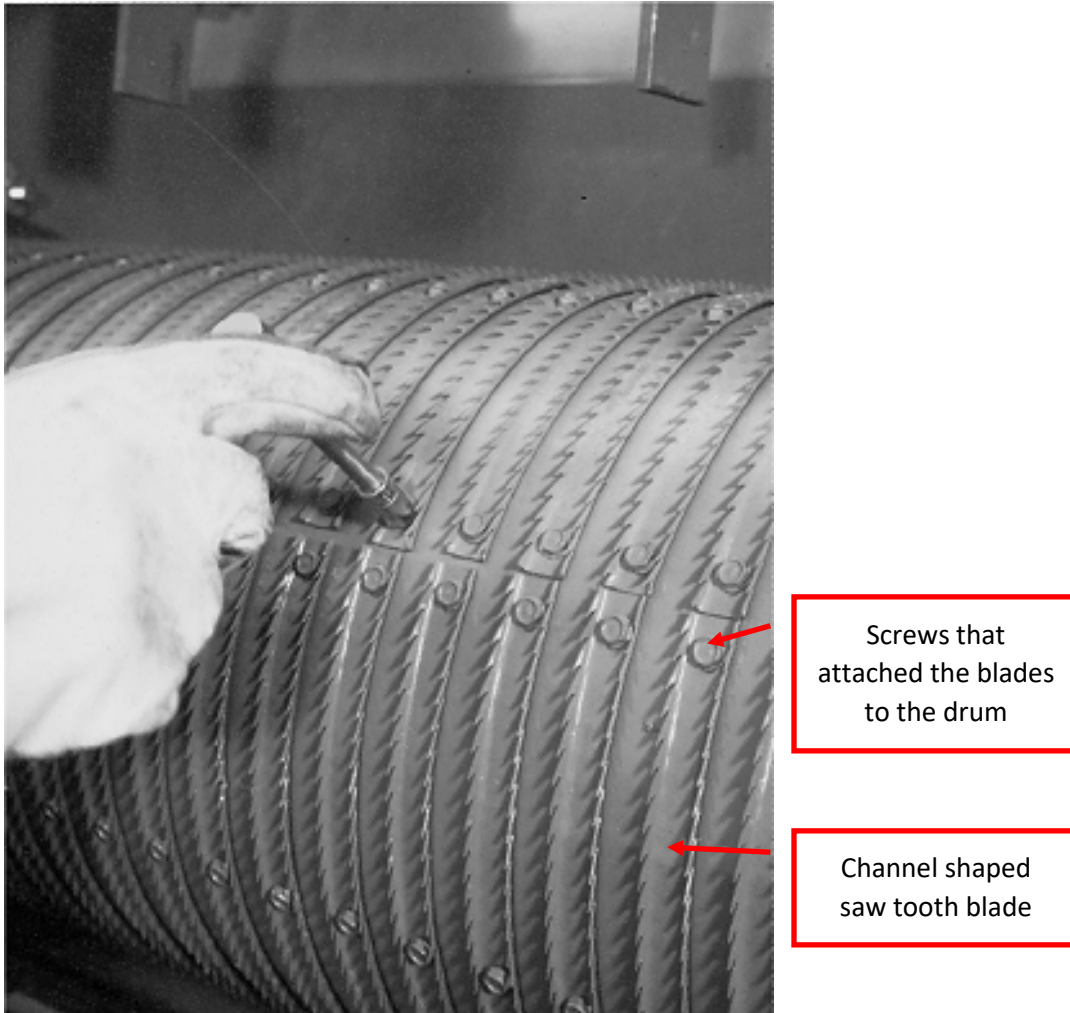


Figure 2 – Saw tooth drum and saw tooth drum blades

In this case, five saw blade screw heads were observed to be snapped off. All of the snapped off screw heads were located in the double rows of screws which attached the ends of the saw tooth blades. Four out of the five screws were located on the leading edge of the saw tooth blade but the screw head which was snapped off on the lower saw tooth roll was on the trailing edge of the saw tooth blade.

Figure 3 shows a saw tooth drum from an end view. The green center circle is the drum itself and the dark blue outer half circle is one saw tooth blade and the orange half circle is the corresponding blade which covers the circumference of the drum. The black lines represent the screws which attach the blades and they are numbered 1 – 10. The blue circle represents the doffer. Both drums are turning in opposite directions to each other and they are not normally in contact with each other.

If a screw is broken off at location #1 on the diagram, the blade is able to pull away from the drum during operation. The force of the cotton on the blade will continue to pull the

unattached blade away from the drum. The blade will bend backward until it reaches the next screw which in this case is screw #2. If the blade is bent far enough backwards, it will break off right at the location of screw #2. When the blade is bent away from the drum but has not reached the point where it breaks off at the next screw, the blade has the potential to strike the doffer because it is sticking too far out from the surface of the saw tooth drum.

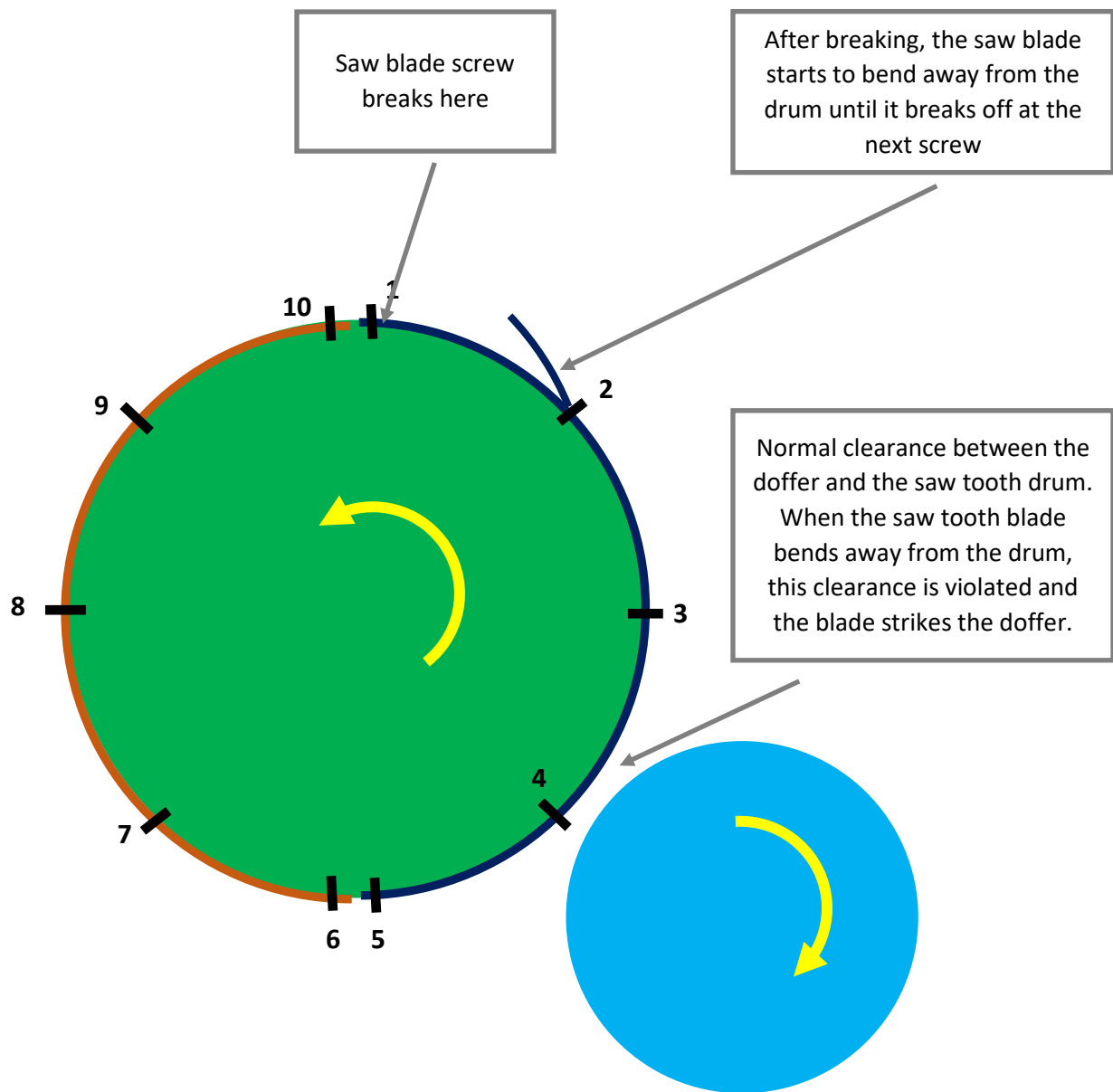


Figure 3 – Saw tooth drum and doffer contact scenario with a broken saw tooth blade screw

On the subject cotton stripper, there were slight impact marks on the doffer which indicated that the saw blades had been in contact with the doffer. The scenario described in Figure #3 shows how the saw tooth blades can contact the doffer after the attachment screw head



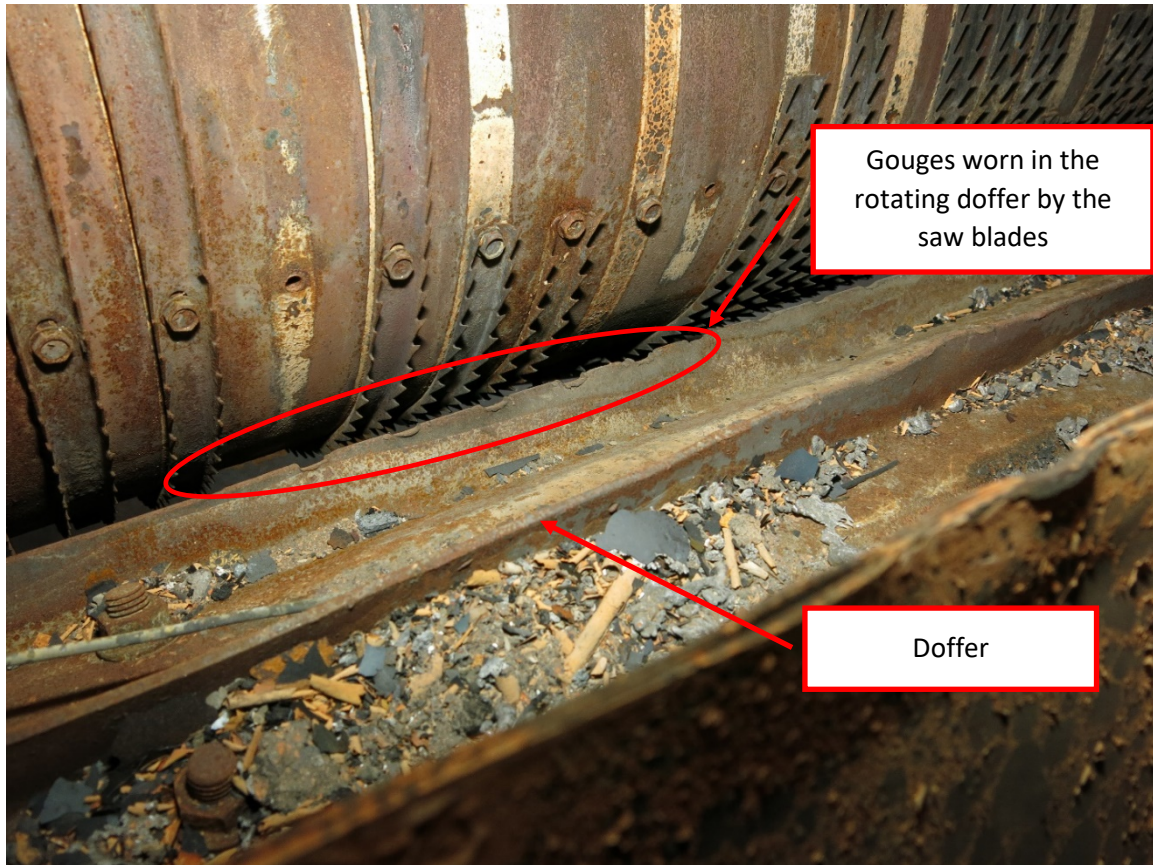
Mr. David Taylor  
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breaks. The gouge marks on the doffer are evidence that there was metal to metal contact within the cleaner of the cotton stripper.

The gouge marks on the subject doffer were in the early stages of development based on the number of hours the unit has operated. If the condition is allowed to fully develop over time the gouge marks on the doffer develop into deeper more easily observed gouge marks. Report Photograph #1, below, is from another cotton stripper that had fractured saw tooth blades which allowed the saw tooth blades to strike the doffer.



Report Photograph 1 – Exemplar doffer and saw tooth drum with gouge marks from the saw tooth blades.

Based on my examination of the cotton stripper, it seems most likely that the metal to metal contact within the cleaner was the cause of the fire on the subject cotton stripper. The metal to metal contact would have created sparks that have the potential to ignite the cotton as it passes through the cleaner. The cotton would have been transferred to the accumulator immediately after contact with the doffer which is consistent with the fire developing in the accumulator and baler.

The location of the broken screw heads and the absence of any evidence of a rock ingestion indicate that the screws were likely overtightened at the factory which caused the heads to snap off of the screws. The Technical Repair Manual cites a torque of 53 in-lbs. for the saw blade screws (Page 110-05-1). All of the broken screws were located in the double

Mr. David Taylor

March 6, 2020

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rows of screws which also indicates that all of the broken screws were in the end holes on the saw blades. The subject cotton stripper reportedly had only four fan hours at the time of the second fire. It seems highly unlikely that there could be five screw heads broken off in the cleaner with no indications of any rock ingestion problems in the cleaner.

### CONCLUSIONS

Based on my examination of the subject cotton stripper and based on my experience and education, this fire loss was caused by the sparks produced from metal on metal contact between the doffer and a saw blade on the saw tooth drum. The doffer was slightly gouged from contact with the loose saw tooth blades indicating that the saw tooth blades were in direct metal on metal contact with the doffer. As noted above, it is the opinion of this investigator that the saw tooth blades were loose due to the fact that the screws were overtightened when originally installed at the factory. The screw heads separated from the overtightened fasteners which allowed the saw tooth blade to bend back from the saw tooth drum and contact the doffer when in operation.

The opinions contained in this report are based upon inspections conducted and information known to date. New information may require conclusions and opinions to be reevaluated. Accordingly, please forward any new information you receive at your earliest convenience.

If you should have any questions regarding these items, please contact this investigator. I would like to thank you for the opportunity to be of service in this matter, and I am also submitting a service bill for your consideration.

Respectfully Submitted,



Steven R. Hamers, P.E.  
Mechanical Engineer



CWH000079

0055





17H101-SRH-001 - Front overview



17H101-SRH-002 - Right front corner



17H101-SRH-003 - Right side overview



17H101-SRH-004 - Right rear corner



17H101-SRH-005 - Left rear corner



17H101-SRH-006 - Left side overview





17H101-SRH-007 - Left front corner



17H101-SRH-008 - Manufacturer's identification tag



17H101-SRH-009 - Dealership label



17H101-SRH-010 - Fire location in the field



17H101-SRH-011 - Fire location in the field



17H101-SRH-012 - Fire location in the field





17H101-SRH-013 - Exhaust aftertreatment and hydraulic pumps



17H101-SRH-014 - Exhaust aftertreatment and hydraulic pumps



17H101-SRH-015 - Cotton fan



17H101-SRH-016 - Air filter and DEF tank



17H101-SRH-017 - Hydraulic oil reservoir



17H101-SRH-018 - Header lift frame and lower duct





17H101-SRH-019 - Header lift frame and lower duct



17H101-SRH-020 - Fan air duct and lower cotton duct



17H101-SRH-021 - Fire extinguisher holder on the cab platform



17H101-SRH-022 - Cab



17H101-SRH-023 - Cab



17H101-SRH-024 - RMB – hydraulic drive motor





17H101-SRH-025 - Left side service platform and ladder access to the accumulator



17H101-SRH-026 - Left side service platform



17H101-SRH-027 - Left side service platform



17H101-SRH-028 - Cleaner feeder paddle



17H101-SRH-029 - Cleaner feeder paddle



17H101-SRH-030 - Cleaner – saw tooth drum and grid bars





17H101-SRH-031 - Cleaner – saw tooth drum and grid bars



17H101-SRH-032 - Upper saw tooth drum



17H101-SRH-033 - Upper saw tooth drum – note broken screw head



17H101-SRH-034 - Upper saw tooth drum – note two broken screw heads



17H101-SRH-035 - Trash auger – right side



17H101-SRH-036 - Trash auger





17H101-SRH-037 - Saw brush and reclamation brush



17H101-SRH-038 - Fan cover panel



17H101-SRH-039 - Doffer



17H101-SRH-040 - Doffer



17H101-SRH-041 - Meter rollers in the accumulator



17H101-SRH-042 - Meter rollers in the accumulator





17H101-SRH-043 - Accumulator compactor auger



17H101-SRH-044 - Beater rollers



17H101-SRH-045 - Beater rollers



17H101-SRH-046 - Heat and fire damage along the back panel of the accumulator



17H101-SRH-047 - Heat and fire damage along the back panel of the accumulator



17H101-SRH-048 - Round module builder (RMB)



17H101-SRH-049 - RMB – take up arm rollers



17H101-SRH-050 - RMB - take up arm rollers



17H101-SRH-051 - Round module builder (RMB)



17H101-SRH-052 - Round module builder (RMB)



17H101-SRH-053 - Round module builder (RMB)



17H101-SRH-054 - Round module builder (RMB)





17H101-SRH-055 - Cotton stripper overview



17H101-SRH-056 - Exhaust aftertreatment



17H101-SRH-057 - Manufacturer's identification label



17H101-SRH-058 - Engine compartment



17H101-SRH-059 - Hydraulic lines and air cleaner



17H101-SRH-060 - Header lift frame and lower duct separator





17H101-SRH-061 - Lower duct separator



17H101-SRH-062 - Lower duct separator



17H101-SRH-063 - Cotton cleaner



17H101-SRH-064 - Cotton cleaner drive pulleys



17H101-SRH-065 - Cotton cleaner – saw tooth drums



17H101-SRH-066 - Cotton cleaner – saw tooth drums





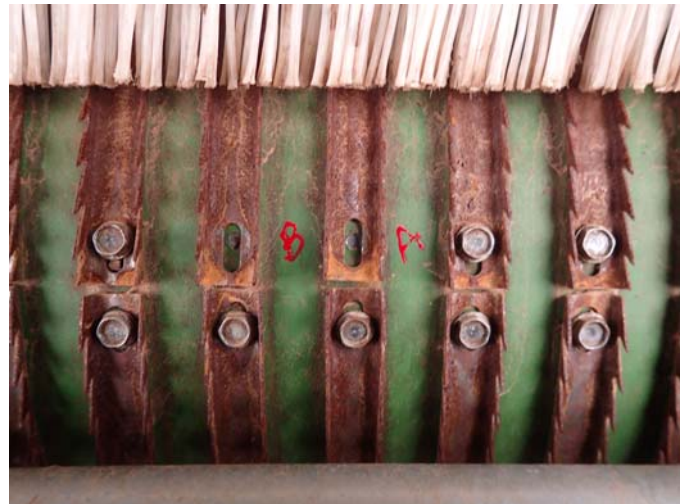
17H101-SRH-067 - Locating and marking the broken screw heads on the saw tooth drums



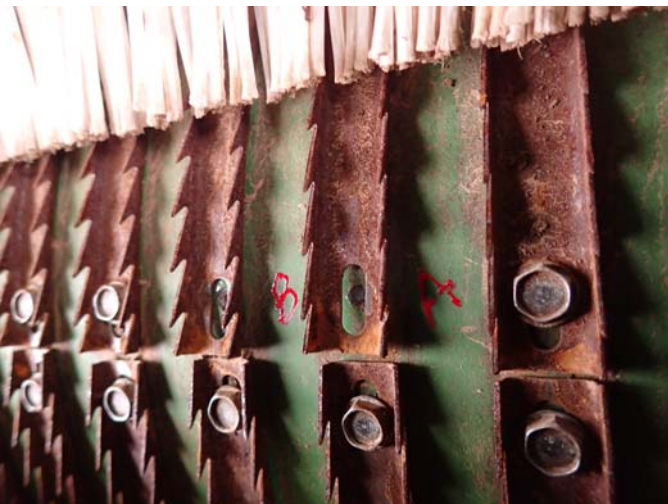
17H101-SRH-068 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-069 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-070 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-071 - Saw tooth blades – note no damage to the teeth near the broken screw heads



17H101-SRH-072 - Saw tooth blades – note no damage to the teeth near the broken screw heads





17H101-SRH-073 - Locating and marking the broken screw heads on the saw tooth drums



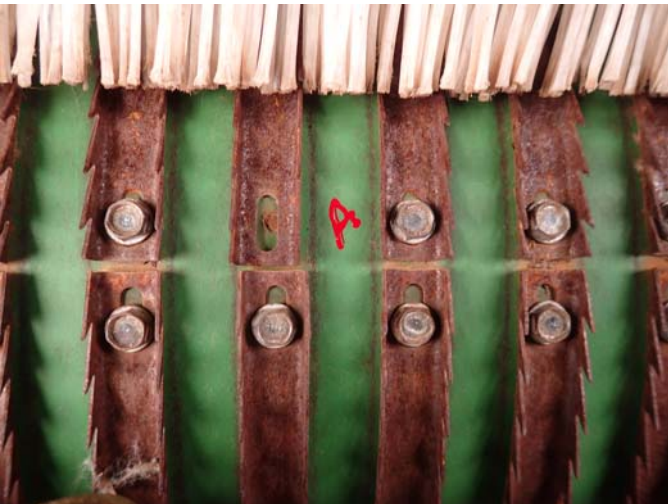
17H101-SRH-074 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-075 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-076 - Locating and marking the broken screw heads on the saw tooth drums

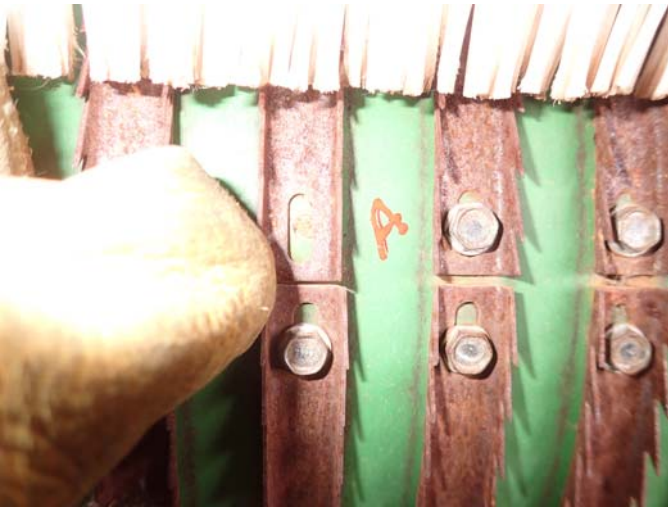


17H101-SRH-077 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-078 - Locating and marking the broken screw heads on the saw tooth drums

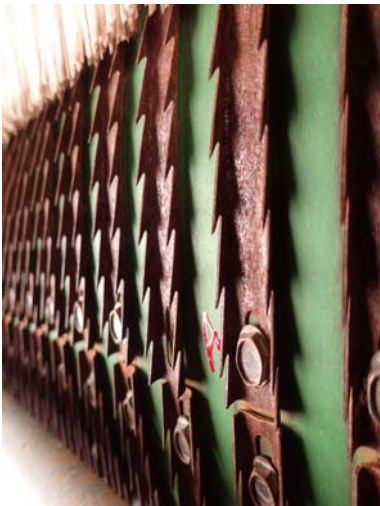




17H101-SRH-079 - Saw tooth blades – note no damage to the teeth near the broken screw head



17H101-SRH-080 - Saw tooth blades – note no damage to the teeth near the broken screw heads



17H101-SRH-081 - Saw tooth blades – note no damage to the teeth near the broken screw heads



17H101-SRH-082 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-083 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-084 - Locating and marking the broken screw heads on the saw tooth drums





17H101-SRH-085 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-086 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-087 - Locating and marking the broken screw heads on the saw tooth drums



17H101-SRH-088 - Doffer



17H101-SRH-089 - Impact marks on the doffer in line with the loose saw tooth blades.

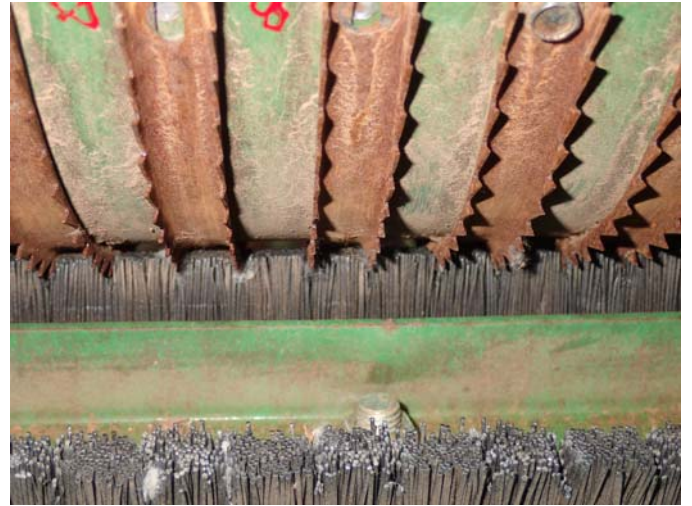


17H101-SRH-090 - Impact marks on the doffer in line with the loose saw tooth blades.





17H101-SRH-091 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-092 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-093 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-094 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-095 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-096 - Impact marks on the doffer in line with the loose saw tooth blades.





17H101-SRH-097 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-098 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-099 - Impact marks on the doffer in line with the loose saw tooth blades.



17H101-SRH-100 - Beater rollers in the accumulator



17H101-SRH-101 - Beater rollers in the accumulator



17H101-SRH-102 - Upper duct separator



17H101-SRH-103 - Upper duct finger grates



17H101-SRH-104 - Upper duct finger grates



17H101-SRH-105 - Upper duct finger grates

-



**HAMERS****Hamers Engineering LLC**  
Phone: 515-357-0749753 Y Avenue  
Ames, IA 50014

Date: 12/13/2017

File #: 17H101

Insured: CWH Farms

Loss Address: Rural Roscoe, TX

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MECHANICAL ENGINEER(515) 357-0749  
steve@hamersengineering.com  
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**Tim Christensen - PE, CEFI, CVFI**

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Specializing in Mobile Off-Road Equipment

Signature

Party Representing

CWH Farms - NATIONWIDE

Signature

Party Representing

JOHN DEERE

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SENIOR FIRE CONSULTANT1431 GREENWAY DRIVE  
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E-MAIL: DGMOSER@RIMKUS.COM

WWW.RIMKUS.COM

Signature

Party Representing

Hurst Supply

(Place card or fill out information)

Name Jeff Ratheal

Company Hurst Farm Supply

Address

Email jeff@hurstfs.com

Phone/Fax

Signature

Party Representing

(Place card or fill out information)

Name MARK WHATLEY

Company UNIFIED INVESTIGATION

Address 1700 TECH CENTRE PKY.  
#110 ARLINGTON, TX 76014

Email MWHATLEY@UIS-USA.COM

Phone/Fax 817-789-8251

Signature

Party Representing

CWH Farms

(Place card or fill out information)

Name

Company

Address

Email

Phone/Fax

Signature

Party Representing



## **Steven R. Hamers, P.E.**

Mechanical Engineer

Cell: (515) 357-0749

[steve@hamersengineering.com](mailto:steve@hamersengineering.com)

### **Education**

Iowa State University, Ames, Iowa

Bachelor of Science, Agricultural Engineering, May 2010

Primary Emphasis: Machinery Design and Grain Handling Systems

Iowa State University, Ames, Iowa

Bachelor of Science, Agricultural Studies, May 1998

Primary Emphasis: Agronomy and Crop Production Systems

### **Licensure**

Licensed Professional Engineer

Arkansas – License No. 19376

Iowa - License No. 22578

Minnesota – License No. 56597

North Dakota – License No. PE-27784

South Dakota – License No. C-7907

Kansas – License No. 26637

Nebraska – License No. E-17339

Wisconsin – License No. 46940-6

### **Professional Experience**

2017 – Current: Hamers Engineering LLC, Ames, IA

Mechanical Engineer / Principal Member

- Perform mechanical failure investigations on fuel gas systems, appliances, plumbing components and HVAC systems
- Consult on mechanical and agricultural topics including the following: agricultural equipment fires; grain dryer fires; construction equipment failures; moisture control and source analysis; and product failure analysis

2009 - 2017: Independent Forensic Investigations Corp., Urbandale, IA

Mechanical Engineer (2015) / Agricultural Consultant

- Conduct mechanical failure investigations including fuel gas system failures, appliance malfunctions and water losses
- Consult on mechanical and agricultural topics including the following: agricultural equipment fires; grain dryer fires; construction equipment failures; moisture control and source analysis; and product failure analysis

- 2008 - 2009 : Iowa State University, Ames, IA  
Undergraduate Research Assistant – Agricultural Engineering Dept.
- Collected and processed field data using survey equipment
  - Evaluated crop residue for an erosion control study
  - Collect data and ran modeling software for underground water flow
- 2003 - 2007 : Valley Bank & Trust, Mapleton, IA  
President and CEO from 02/2005 – 08/2007
- Managed operations of a \$53M agricultural based bank
  - Operated in-house insurance agency
- 1998 - 2003 : Danbury Agri-Service, Danbury, IA  
Head Agronomist / Equipment Manager
- Diagnosed crop production problems and developed solutions
  - Implemented precision farming program
- 1993 - 1998 : Boyle Construction, Danbury, IA  
Carpenter / General Laborer
- Provided labor for new home and business construction projects
  - Experience with concrete and wood foundations
  - Evaluated shingles and estimated replacement roofing costs
- 1987 - 2000 : Hamers Farms, Danbury, IA  
General Laborer
- Provided labor for family farming operation
  - Operated and maintained farming equipment

### **Teaching and Speaking Engagements**

- |                    |  |
|--------------------|--|
| March 27, 2019     | Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures |
| March 27, 2018     | Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures |
| September 28, 2017 | 48 <sup>th</sup> Annual Nebraska Fire & Arson Investigation Conference – Instructor for Agricultural Building and Equipment Fires        |
| May 2, 2017        | 2017 Farm Bureau Operations Conference, Des Moines – Presenter of “Wood Heat a Burning Problem”  |
| March 26, 2017     | Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures |
| October 12, 2016   | Farmers Alliance - “Farm Subrogation” co-presenter with Attorney David Taylor  |
| June 9, 2016       | Wisconsin Reinsurance Annual Meeting – Role of Forensic Engineering in Insurance Claims  |
| March 22, 2016     | Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures |
| October 22, 2015   | NASP Iowa Chapter Meeting – Presentation on “Building an Investigative Team”   |

March 24, 2015	Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures
November 10, 2014	NASP Annual Conference – “Subrogation on the Farm” co-presenter with Attorneys David Taylor and Timothy Poeschl
October 2, 2014	NASP Minnesota Chapter meeting – “Subrogation on the Farm” co-presenter with Attorneys David Taylor and Timothy Poeschl
March 25, 2014	Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures
March 19, 2013	Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures
September 21, 2012	International Association of Arson Investigators - Iowa Chapter Fire Investigation Seminar – Instructor for agricultural fires
March 16, 2012	Iowa State Fire Marshal Fire/Arson Investigator School - Instructor for agricultural fires, appliance fires and fuel gas system failures

### **Professional Affiliations / Certifications**

F.I.R.E Certified Fireplace and Chimney Inspector – FCI-269  
American Society of Agricultural and Biological Engineers - Member  
ASM International – Member  
American Society of Mechanical Engineers - Member  
National Fire Protection Association – Member  
International Association of Arson Investigators, Inc. - Member

### **Continuing Education**

Sept 24-25, 2018 – Certified Fire Protection Specialist Primer Training - NFPA  
Feb 20-22, 2018 – Advanced Principles of Fire Dynamics – Gulf Coast Fire Investigation, Research, and Education  
Sept 12-14, 2016 – International Symposium on Fire Investigation Science & Technology  
June 24, 2016 – NASP / IAAI “Arson Investigators Subrogation Webinar Series” – Vetting the Expert  
June 8, 2016 – Burn Cell Research & Education – Grinnell Mutual & Iowa Chapter IAAI  
August 3-8, 2015 – F.I.R.E Certified Fireplace and Chimney Inspector Program  
July - October, 2014 – PPI - Mechanical PE Live Online Review Course (50 Hours)  
October 9-10, 2013 - Fire Findings - Investigating Solid Fuel-Burning Appliance Fires  
April 16-19, 2013 - Fire Findings - Investigation of Gas and Electric Appliance Fires  
September 10-11, 2012 - ASM International – How to Organize and Run a Failure Investigation  
September 12-14, 2012 - ASM International – Principles of Failure Analysis  
May 2011 - Agricultural Machinery Conference – Technical Sessions  
*Product Safety Standards*  
*New Technologies in Operator Safety*  
*Fire Prevention Technology*  
August 2010 - Grain System Inc. – 2 day grain dryer operation class



## Steven R Hamers - Testimony History

<u>Date</u>	<u>Case</u>	<u>County</u>	<u>State</u>	<u>Case Number</u>	<u>Type</u>	<u>For</u>
11/16/2012	Gary Marshall and Terry Marshall d/b/a Marshall Brothers Partnership vs. GSI Group d/b/a GSI	Beadle	SD	Civ. No. 10-489	Deposition	Plaintiff
4/30/2013	State Farm Fire and Casualty Company et al. vs. MECO Corporation	Southern District	IA	4:12-cv-00309-RP-CFB	Deposition	Plaintiff
11/1/2013	Mahoney etal v. Sherwin-Williams et al.	Scott	IA	LACE122009	Deposition	3rd Party
1/20/2015	Arne / Beving v. Burke et al.	Clark	SD	Civ 13-42	Deposition	Plaintiff
5/19/2016	Bowman et al. v. Dometic Corporation	Southern District	IA	4:14-CV-00089-SMR-HCA	Deposition	Plaintiff
11/18/2016	Realm Inc. v. Warnick & Reeves Mechanical	Jasper	IA	LACV0119733	Deposition	Defendant
12/9/2016	Estate of Kurt Sulzman v. Deere & Company, et al.	Madison	IA	LACV034262	Deposition	Defendant
12/13/2016	Nelson v. Holcomb Delivery, Inc., Nebraska Furniture Mart, Inc. et al.	Pottawattamie	IA	LACV112306	Deposition	Plaintiff
1/26/2017	Protsman et al v. H&H Harvesting, et al	Chouteau	MT	DV-14-15	Trial	Defendant
7/28/2017	Mark Merfeld et al v. Dometic Corporation	Northern District	IA	6:16-CV-2096-LTS	Deposition	Plaintiff
8/3/2017	Horn et al v. R&D Plumbing	Polk	IA	LACL135326	Deposition	Plaintiff
9/7/2017	Craig Naber v. Jerald "Jerry" Naber	Buchanan	IA	EQCV009085	Deposition	Plaintiff
11/3/2017	Farm Bureau Property & Casualty Insurance a/s/o Russell Seekins v. CNH Industrial America LLC	Northern District	IA	3:16-CV-03122	Deposition	Plaintiff
11/3/2017	Farm Bureau Property & Casualty Insurance a/s/o Troy Wheeler v. CNH Industrial America LLC	Northern District	IA	4:16-CV-00636-CRW-SBJ	Deposition	Plaintiff
11/9/2017	S&R Egg Farm Inc. & Nationwide Agribusiness Insurance Company v. Munters Corporation; Hitachi America, Ltd. Et al	Eastern District	WI	15-CV-1362	Deposition	Plaintiff
1/11/2018	Craig Naber v. Jerald "Jerry" Naber	Buchanan	IA	EQCV009085	Trial	Plaintiff
5/3/2018	Lashbrook v. Owens	Black Hawk	IA	LACV131359	Deposition	Defendant
7/16/2018	Robert Roden v. Mid-States Equipment LLC	Washington	WI	17-CV-0255	Deposition	Plaintiff
9/25/2019	Robert Roden v. Mid-States Equipment LLC	Washington	WI	17-CV-0255	Trial	Plaintiff
11/21/2019	212 Truck & Trailer Repair LLC v. Harry's Septic & Sewer S	Clark	SD	12 CIV 17-000038	Trial	Plaintiff



FEE SCHEDULE

Effective 01/01/2020

Steven Hamers, P.E. – Mechanical Engineer

Regular hourly rate -	\$260 / hr
Deposition testimony rate -	\$390 / hr
Trial testimony rate -	\$390 / hr

All travel time is billed at the regular rate portal to portal

Mileage is billed at \$0.80 per mile

Photographs are billed at \$1.00 each with a daily maximum of \$100.00

Hotels, airfare and additional travel expenses are billed at cost

Overnight stays include a meal & incidental per diem billed at \$39.00 / night

Evidence Storage Charges – Hamers Engineering LLC offers evidence storage. The storage fees are billed in six month intervals and vary depending on the size of the stored artifact. The minimum storage fee is \$25.00 per month. Storage of very large artifacts can be arranged with an outside vendor.

STEVE HAMERS, P.E. Volume II  
NATIONWIDE AGRIBUSINESS vs DEERE & CO.

August 18, 2020

72-75

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF TEXAS  
3 PORT WORTH DIVISION  
4 NATIONWIDE AGRIBUSINESS)  
5 INSURANCE COMPANY, AS )  
6 SUBROGEE OF CWH FARMS, ) CIVIL ACTION NO.  
7 ) 4:19-cv-00425-O  
8 Plaintiff, )  
9 )  
10 vs. ) VIDEOTAPED  
11 ) VIDEOCONFERENCE  
12 DEERE & COMPANY, ) DEPOSITION OF  
13 ) STEVE HAMERS, P.E.,  
14 Defendant. ) VOLUME II  
15 -----)  
16  
17 THE VIDEOTAPED VIDEOCONFERENCE  
18 DEPOSITION OF STEVE HAMERS, P.E., VOLUME II,  
19 taken before Chris A. Quinlin, Registered  
20 Professional Reporter and Notary Public of the  
21 State of Iowa, commencing at 9:36 a.m.,  
22 August 18, 2020. All parties appeared via  
23 videoconference.  
24  
25 Reported by: Chris A. Quinlin, R.P.R.

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1 A P P E A R A N C E S  
2 Plaintiff by: DAVID J. TAYLOR  
3 (via videoconference)  
4 Attorney at Law  
5 YOST & BAILL, LLP  
6 2050 U.S. Bank Plaza South  
7 Minneapolis, MN 55402  
8 (612) 338-6000  
9 dtaylor@yostbaill.com  
10 Defendant by: CHRIS A. BLACKERBY  
11 (via videoconference)  
12 Attorney at Law  
13 GERMER BEAMAN & BROWN, PLLC  
14 301 Congress Avenue  
15 Suite 1700  
16 Austin, TX 78701  
17 (512) 472-0288  
18 cblackerb@germer-austin.com  
19 Videographer: JUANITA UMANA  
20 (via videoconference)  
21  
22 Also present: JACOB EVERHART  
23 (via videoconference)  
24 TRACE LANDERS  
25 (via videoconference)

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1 I N D E X  
2 Examination by: Page  
3 Mr. Blackerby 76, 267  
4 Mr. Taylor 247, 274  
5  
6 Exhibit Marked  
7 Exhibit 15 277  
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1 P R O C E E D I N G S  
2 THE VIDEOGRAPHER: Okay. The  
3 time is 9:36 a.m., and we are on the record. It  
4 is August 18th, 2020.  
5  
6 This begins the videotaped  
7 deposition of Steve Hamers taken in the matter  
8 of Nationwide Agribusiness Insurance Company, as  
9 subrogee of CWH Farms, versus Deere & Company,  
10 case number which is 4:19-cv-00425-O.  
11  
12 My name is Juanita Umana. I'm  
13 the remote videographer for today. Our court  
14 reporter is Chris Quinlin. We are representing  
15 Esquire Deposition Solutions.  
16  
17 As a courtesy, everyone who is  
18 not speaking please mute your audio. And when  
19 you're ready to speak, please unmute yourself.  
20  
21 Counsel, will you please state  
22 your name and whom you represent, after which  
23 the court reporter will swear in the witness.  
24  
25 MR. TAYLOR: Dave Taylor on  
26 behalf of the plaintiffs.  
27  
28 MR. BLACKERBY: Chris Blackerby  
29 on behalf of Deere.  
30

<p style="text-align: right;">Page 124</p> <p>1 bolts can become separated during operation or</p> <p>2 popped off?</p> <p>3 A. Well, that's from knowledge about bolts</p> <p>4 in general.</p> <p>5 Q. Well, I --</p> <p>6 A. I mean --</p> <p>7 Q. So I'm talking about cotton strippers</p> <p>8 and how these things operate and what kind of</p> <p>9 conditions they go through in the field and how</p> <p>10 the cotton and material that gets in there</p> <p>11 interacts with it.</p> <p>12 I know you've said you've never</p> <p>13 operated one and you've never serviced one. So</p> <p>14 in terms of the explanation as to how bolts on</p> <p>15 the drum of a cotton stripper might be sheared</p> <p>16 off or popped off during operation, what's the</p> <p>17 basis for the -- your belief that it's either</p> <p>18 overtightening or some type of rock strike?</p> <p>19 MR. TAYLOR: Objection. Form.</p> <p>20 A. Well, Mr. Blackerby, there's only so</p> <p>21 many ways to break the head off of a bolt</p> <p>22 regardless of whether it's in a cotton stripper</p> <p>23 or it's in something else. The two ways to do</p> <p>24 it are to shear it off or to torque it off. And</p> <p>25 that's it. That's the only two ways to do it.</p>	<p style="text-align: right;">Page 126</p> <p>1 strippers.</p> <p>2 One would be an overtorquing</p> <p>3 situation. The other one would be a -- some</p> <p>4 type of rock strike that got in there and</p> <p>5 actually hit the bolt head or pinched the bolt</p> <p>6 head in such a way that it popped it off. And</p> <p>7 the third way would be some type of load on the</p> <p>8 blade laterally that would maybe move it and</p> <p>9 shear off the bolt head.</p> <p>10 That's three potential ways in</p> <p>11 which it could happen. I'm not -- I'm not</p> <p>12 trying to say you're agreeing that that happened</p> <p>13 in this case, but those are three potential</p> <p>14 ways. Do you agree with that?</p> <p>15 A. I think that's a fair statement.</p> <p>16 Q. Okay. If the -- If there is a bolt</p> <p>17 head that is sheared off or -- or popped off</p> <p>18 during operation, is it your contention that you</p> <p>19 will always see some kind of broken teeth or</p> <p>20 some type of evidence?</p> <p>21 MR. TAYLOR: Objection. Form.</p> <p>22 A. I think it depends on the mechanism at</p> <p>23 which it was broken off.</p> <p>24 Q. So this is during operation. So we're</p> <p>25 taking overtorquing out of the analysis. You</p>
<p style="text-align: right;">Page 125</p> <p>1 Q. All right.</p> <p>2 A. So that's how, I guess, I arrive at</p> <p>3 that, which then within the unit the way to</p> <p>4 torque them off is to have them be overtightened</p> <p>5 and the way to shear them off is to hit them</p> <p>6 with something. Or maybe you could potentially</p> <p>7 overload the blade and pull it enough to shear</p> <p>8 the bolt off, but that -- that would be similar</p> <p>9 to striking a rock or something -- some foreign</p> <p>10 material in there is most likely what has to</p> <p>11 happen.</p> <p>12 Q. That third explanation that you just</p> <p>13 added was one that I was wanting to know if you</p> <p>14 were aware of or recognized. You understand</p> <p>15 that something could overload the blade and</p> <p>16 cause it to move laterally and potentially shear</p> <p>17 off the bolt head that way; right?</p> <p>18 A. Yeah. I believe that's correct. You</p> <p>19 would see some evidence of that.</p> <p>20 Q. Well, we'll -- And we'll get to that,</p> <p>21 whether or not you would see some evidence of</p> <p>22 that, but a potential way -- there's -- so</p> <p>23 we've -- we've now come up with -- you can --</p> <p>24 you can think of three ways in which a bolt head</p> <p>25 could go missing on one of these cotton</p>	<p style="text-align: right;">Page 127</p> <p>1 think that there is some ways during operation</p> <p>2 in which a bolt head could be sheared off</p> <p>3 without it leaving some type of physical</p> <p>4 evidence?</p> <p>5 MR. TAYLOR: Objection. Form.</p> <p>6 A. I -- I guess I -- I believe it would</p> <p>7 leave some physical evidence, because if there's</p> <p>8 a rock that takes it out, then that would leave</p> <p>9 some type of -- of mark or something close to</p> <p>10 the screw head that takes it out.</p> <p>11 And if it is overloaded due to</p> <p>12 shear, then we should see a mark on the blade</p> <p>13 that shows that the screw head moved or that</p> <p>14 the -- where the indent is on the blade, we</p> <p>15 should see that mark on the blade that the screw</p> <p>16 head had repositioned itself.</p> <p>17 So yes, I think it's going to</p> <p>18 leave some evidence.</p> <p>19 Q. So it may not have a broken sawtooth</p> <p>20 blade, but you may have some -- I mean, in terms</p> <p>21 of the teeth, but you're saying that there may</p> <p>22 be some evidence on the actual blade itself</p> <p>23 where it interacted with the bolt? Is that what</p> <p>24 you're saying?</p> <p>25 MR. TAYLOR: Objection.</p>



<p style="text-align: right;">Page 272</p> <p>1 Q. Okay. So the one in the background is</p> <p>2 the -- is the spot that we looked at earlier?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. And then --</p> <p>5 A. And then if you pull down right to</p> <p>6 there, that spot lines up with that spot that we</p> <p>7 looked at early on.</p> <p>8 Q. Okay. And then this discoloration that</p> <p>9 we see off in the background, farther off, where</p> <p>10 it also goes across the doffer, you're just</p> <p>11 saying that's not the same type of damage, even</p> <p>12 though --</p> <p>13 A. It's not the same damage, no.</p> <p>14 Q. And how do you distinguish it between</p> <p>15 looks? What is it that distinguishes it in your</p> <p>16 mind from -- from the condition we're seeing</p> <p>17 here?</p> <p>18 A. Well, these are lined up with the</p> <p>19 sawtooth blade, first of all. And those</p> <p>20 discolored areas over there, they're not going</p> <p>21 down or through the paint layer the way that</p> <p>22 these do. And those areas over there are not --</p> <p>23 the paint is not worn off over the whole width</p> <p>24 of the support for the doffer brush.</p> <p>25 Q. Okay. So you're saying that because</p>	<p style="text-align: right;">Page 274</p> <p>1 from the sawtooth blade are striking that.</p> <p>2 MR. BLACKERBY: Okay. All right.</p> <p>3 I think -- I think that's it. Anything else you</p> <p>4 want to add?</p> <p>5 RECROSS-EXAMINATION</p> <p>6 BY MR. TAYLOR:</p> <p>7 Q. Yeah. I forgot to ask, Mr. Hamers, I</p> <p>8 did ask you a number of questions in regards to</p> <p>9 the other experts that have been hired in this</p> <p>10 case, whether they're hired by the plaintiffs or</p> <p>11 retained by John Deere, and them collectively</p> <p>12 pointing out or not pointing out any evidence of</p> <p>13 rock ingestion.</p> <p>14 Do you recall all those</p> <p>15 questions?</p> <p>16 A. I do, yes.</p> <p>17 Q. In a similar vein, if -- not to belabor</p> <p>18 the point, but let -- are there any of the</p> <p>19 experts that are retained by Deere -- John Deere</p> <p>20 in this case, whether it's Trace Landers or Tim</p> <p>21 Christensen, that identified any additional</p> <p>22 mechanical failure within the Hughes stripper</p> <p>23 besides the broken bolt heads?</p> <p>24 A. Not that I'm aware of, no.</p> <p>25 Q. Okay. Are you aware of anyone at Hurst</p>
<p style="text-align: right;">Page 273</p> <p>1 the -- like, for example, this area has -- it's</p> <p>2 all the way across, it's different than other</p> <p>3 areas which are not all the way -- the area of</p> <p>4 paint that's worn off is not all the way across,</p> <p>5 and so therefore that's indicative to you that</p> <p>6 it's not from contact?</p> <p>7 A. That's right. And this -- this</p> <p>8 close-up area here that you were just pointing</p> <p>9 at actually has some -- some metal wear marks on</p> <p>10 it.</p> <p>11 Q. It has some, I'm sorry, what?</p> <p>12 A. Some wear marks on it, if you want to</p> <p>13 zoom in on that area.</p> <p>14 Q. Sure. Show me. This area right here?</p> <p>15 Is this what you're talking about?</p> <p>16 A. Yeah, right here. Zoom in there.</p> <p>17 Okay. You see the striations on there, those</p> <p>18 metal marks?</p> <p>19 Q. You're talking about this right here?</p> <p>20 A. Yep.</p> <p>21 Q. Okay. So you're -- you're claiming</p> <p>22 that that is -- right there is evidence that</p> <p>23 these striations are some type of evidence of</p> <p>24 metal-on-metal contact?</p> <p>25 A. That's right. That's where the teeth</p>	<p style="text-align: right;">Page 275</p> <p>1 Farm Supply identifying any mechanical failure</p> <p>2 within the Hughes stripper that is beyond the</p> <p>3 broken bolt heads?</p> <p>4 A. No, not that I'm aware of.</p> <p>5 Q. Is it fair to say that we have evidence</p> <p>6 of a mechanical failure by way of these broken</p> <p>7 bolt heads as a potential cause of this fire</p> <p>8 leading to the metal-on-metal contact versus the</p> <p>9 possibility that rocks were ingested into this</p> <p>10 machine without any of the experts identifying</p> <p>11 any evidence?</p> <p>12 MR. BLACKERBY: Form, leading.</p> <p>13 A. That is what we have here for evidence</p> <p>14 so far, is we do have good physical evidence</p> <p>15 that shows that the sawtooth blades were</p> <p>16 striking the doffer. And there's no evidence of</p> <p>17 any rock ingestion.</p> <p>18 MR. TAYLOR: I have no more</p> <p>19 questions. Thanks.</p> <p>20 MR. BLACKERBY: I think we've</p> <p>21 beat the horse to death.</p> <p>22 MR. TAYLOR: We'll read and sign.</p> <p>23 I think we're good. Okay.</p> <p>24 THE WITNESS: Chris, I'd like to</p> <p>25 read and sign. I don't do a lot of these over</p>

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

NATIONWIDE AGRIBUSINESS  
INSURANCE COMPANY, as subrogee of  
CWH FARMS,

Plaintiff,

VS.

DEERE &amp; COMPANY.

Defendant.

*Spiral notebook*

CIVIL ACTION NO.: 4:19-CV-00425-O

**AFFIDAVIT OF MARK H. WHATLEY, IAAI-CFI, CFEI, CVFI**

STATE OF Texas )  
 ) ss.  
COUNTY OF TARRANT )

I, Mark H. Whatley, being first duly sworn, state and allege as follows:

1. I am a Certified Fire and Explosion Investigator (CFEI) with over 21 years of experience, currently employed with Complete Fire Investigations, LLC.
2. I was retained by Plaintiff Nationwide Agribusiness Insurance Company to investigate the origin and cause of the fire to CWH Farms' 2017 John Deere CS690 cotton stripper. I worked in tandem with Mechanical Engineer, Steve Hamers in this effort.
3. At the December 13, 2017 initial joint scene inspection, it was reported that the header that been in use with the cotton stripper had been removed and was in service on another machine.
4. I understood the header that had been in use with the cotton stripper had been looked at, but did not know the extent of the inspection at the time of the initial joint scene inspection.

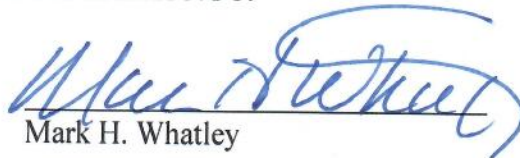
5. I have since had the opportunity to review the July 28, 2020 deposition testimony of John Deere mechanic and Hurst Farm Supply employee Cade Owen, who performed two different inspections of the header.

6. Mr. Owen repeatedly testified that he inspected the header by removing all of the shields checking for any signs of a mechanical or progressive failure. Mr. Owen found no signs of any problems or problems starting with the header after the October 23, 2017 fire. *See Appx. at 0034 (Ex. E at 11:13-12:7; 15:23-16:4; 25:1-7; 30:11-32:1)*

7. Mr. Owen performed a similar inspection of the header after the October 24, 2017 fire and again, found no signs of any issues with the header. *See Appx. at 0034 (Ex. E at 14:16-22; 21:21-22:7; 23:11-22; 25:1-26:1; 26:23-27:10)*

8. As Mr. Owen is a knowledgeable and experienced mechanic and now that I know the extent his two inspections, I can rule out the header as a possible area of origin for this fire pursuant to NFPA 921.

FURTHER YOUR AFFIANT SAITH NOT.

  
Mark H. Whatley

Subscribed and sworn to before me  
this 28 day of August, 2020.

  
Notary Public

